

106TH CONGRESS
1ST SESSION

H. R. 2645

To provide for the restructuring of the electric power industry.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1999

Mr. KUCINICH (for himself, Mr. GUTIERREZ, Ms. SCHAKOWSKY, and Ms. BALDWIN) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To provide for the restructuring of the electric power industry.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited the “Elec-
5 tricity Consumer, Worker, and Environmental Protection
6 Act of 1999”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Severability.
- Sec. 5. Enforcement.

TITLE I—FEDERAL STANDARDS FOR ELECTRICITY SERVICE

- Sec. 101. Worker protections.
- Sec. 102. Consumer privacy.
- Sec. 103. Payment plans.
- Sec. 104. Bills.
- Sec. 105. Dispute resolution.
- Sec. 106. Distribution service and supply service quality standards.
- Sec. 107. Citizen utility boards.
- Sec. 108. Office of Consumer Counsel.
- Sec. 109. Prohibition of power plant bailouts.
- Sec. 110. Prohibition of affiliate abuses and cross-subsidies.
- Sec. 111. Mergers.
- Sec. 112. Pollution standards.
- Sec. 113. National Electric Public Benefit Board.
- Sec. 114. National Electric Public Benefit Fund.
- Sec. 115. Renewable energy portfolio standards.
- Sec. 116. Net-metering and interconnection standards.
- Sec. 117. Civil liability.

TITLE II—STATE STANDARDS FOR ELECTRICITY SERVICE

- Sec. 201. State certification for retail deregulation.
- Sec. 202. Prohibition of cost shifting.
- Sec. 203. Prohibition of affiliate abuses and cross-subsidies.
- Sec. 204. Prohibition of excessive generation market power.
- Sec. 205. Basic service.
- Sec. 206. Aggregation of consumers.
- Sec. 207. Worker protections.
- Sec. 208. Licensing and disclosure requirements for retail suppliers.
- Sec. 209. Regulation of distribution companies.
- Sec. 210. Change of supplier.
- Sec. 211. Distribution service disconnections and supply terminations.
- Sec. 212. Credit and collection practices.
- Sec. 213. Unfair trade practices.
- Sec. 214. Meters.
- Sec. 215. Exemption rescinded from Equal Credit Opportunity Act.
- Sec. 216. Consumer remedies.

1 **SEC. 2. FINDINGS.**2 **【To be supplied】**3 **SEC. 3. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “Administrator” means the Ad-
 6 ministrator of the Environmental Protection Agency.

7 (2) The term “affiliate” of a specific company
 8 means any company 5 percent or more of whose out-

1 standing voting securities are owned, controlled, or
2 held with power to vote, directly or indirectly, by
3 such specific company.

4 (3) The term “aggregator” means any person
5 that purchases or acquires retail electricity on behalf
6 of two or more consumers.

7 (4) The term “ancillary services” shall have the
8 same meaning assigned to it by the Commission.

9 (5) The term “antitrust law” includes “an Act
10 to protect Trade and Commerce against unlawful re-
11 straint and monopolies approved July 2, 1890” (The
12 Sherman Act, 15 U.S.C. 1–7); sections seventy-three
13 to seventy-seven, inclusive of an Act entitled “An
14 Act to reduce taxation, to provide revenue for the
15 Government and for other purposes of August 27,
16 1894” (The Wilson Tariff Act, 15 U.S.C. 8–11; sec-
17 tion 77 of The Wilson Tariff Act was not codified);
18 an Act to supplement existing laws against unlawful
19 restraint and monopolies, and for other purposes,
20 approved October 15, 1914 (The Clayton Act, 15
21 U.S.C. 12–22 and 27, and 29 U.S.C. 52 and 53);
22 and an Act to create a Federal Trade Commission,
23 to define its powers and duties, and for other pur-
24 poses approved September 26, 1914 (The Federal
25 Trade Commission Act, 15 U.S.C. 41 et seq.)

1 (6) The term “associate company” of a com-
2 pany means any company in the same holding com-
3 pany system with such company.

4 (7) The term “basic service” means the supply
5 and delivery of electricity to a consumer in instances
6 where the consumer is unable or unwilling to choose
7 a supplier in States that have deregulated retail
8 sales of electricity.

9 (8) The term “Board” means the National
10 Electric Public Benefit Board established under sec-
11 tion 113.

12 (9) The term “class” or “customer class”
13 means a group of customers with similar character-
14 istics (e.g., residential, commercial, industrial, etc.),
15 identified for the purpose of setting a rate for elec-
16 tric service.

17 (10) The term “commercial customer” means a
18 company that has traditionally received a commer-
19 cial rate for electricity, as opposed to a residential
20 or industrial rate. “Small commercial customers”
21 are commercial customers with a monthly peak de-
22 mand less than 1,000 kW, and “large commercial
23 customers” include all other commercial customers.

24 (11) The term “Commission” means the Fed-
25 eral Energy Regulatory Commission.

1 (12) The term “company” means a corporation,
2 not-for-profit organization, joint stock company,
3 partnership, association, business trust, organized
4 group of persons, whether incorporated or not, or a
5 receiver or receivers, trustee or trustees of any of
6 the foregoing.

7 (13) The terms “consumer” and “customer”
8 mean a person, government, corporation, or a com-
9 pany that purchases retail electricity for ultimate
10 consumption.

11 (14) The term “corporation” means any cor-
12 poration, not-for-profit organization, joint-stock com-
13 pany, partnership, association, rural electric coopera-
14 tive, municipal utility, business trust, organized
15 group of persons, whether incorporated or not, or a
16 receiver or receivers, trustee or trustees of any of
17 the foregoing.

18 (15) The term “distribution company” means
19 any company that owns or operates facilities used to
20 deliver retail electricity for ultimate consumption.

21 (16) The term “distribution facilities” means
22 facilities used to provide retail electricity for ulti-
23 mate consumption.

24 (17) The term “distributor” means a retail
25 electricity distributor.

1 (18) The term “electric generator” means a
2 person generating electricity.

3 (19) The term “electric utility company” means
4 any company that owns or operates facilities used
5 for the generation, transmission, or distribution of
6 electricity for sale.

7 (20) The term “end-use consumer” means a
8 person that purchases electricity based on metered
9 use but does not resell electricity based on metered
10 use.

11 (21) The term “Fund” means the National
12 Electric Public Benefit Fund established by section
13 113.

14 (22) The term “gas utility company” means
15 any company that owns or operates facilities used
16 for distribution at retail (other than the distribution
17 only in enclosed portable containers) of natural or
18 manufactured gas for heat, light, or power.

19 (23) The term “high-level nuclear waste”
20 means nuclear fuel that has undergone nuclear fis-
21 sion, or any nuclear fuel contaminated by nuclear
22 fuel that has undergone nuclear fission.

23 (24) The term “holding company system”
24 means a holding company together with its sub-
25 sidiary companies.

1 (25) The term “investor-owned company”
2 means any company whose shares are owned by pri-
3 vate individuals or companies.

4 (26) The term “large hydroelectric facility”
5 means a facility which has a power production ca-
6 pacity which, together with any other facilities lo-
7 cated at the same site, is greater than 80
8 megawatts.

9 (27) The term “load pocket” means a portion
10 of the generation, transmission, and distribution net-
11 work in which most of the electricity consumed by
12 electric loads is supplied by generating plants lo-
13 cated close to the loads, because transmission con-
14 straints limit the amount of electricity available from
15 more distant generating plants.

16 (28) The term “low-level nuclear waste” means
17 radioactive waste not classified as high-level radio-
18 active waste, transuranic waste, spent nuclear fuel,
19 or byproduct materials as defined in section 11e(2)
20 of the Atomic Energy Act of 1954 (42 U.S.C.
21 2021). This definition shall apply notwithstanding
22 any declaration by the Federal Government or any
23 State that any radioactive material is exempt from
24 any regulatory control.

1 (29) The term “municipal utility” means a city,
2 county, irrigation district, drainage district, public
3 utility district, or other political subdivision or agen-
4 cy of a State competent under the laws thereof to
5 carry on the business of a retail electricity dis-
6 tributor and/or a retail electricity supplier.

7 (30) The term “person” means an individual or
8 corporation.

9 (31) The term “public utility company” means
10 an electric utility company or gas utility company
11 but does not mean a qualifying facility as defined in
12 the Public Utility Regulatory Policies Act, or an ex-
13 empt wholesale generator or a foreign utility com-
14 pany defined in the Energy Policy Act of 1992.

15 (32) The term “public utility holding company”
16 means—

17 (A) any company that directly or indirectly
18 owns, controls, or holds with power to vote, 10
19 percent or more of the outstanding voting secu-
20 rities of a public utility company or of a holding
21 company of any public utility company; and

22 (B) any person, determined by the Securi-
23 ties and Exchange Commission, after notice and
24 opportunity for hearing, to exercise directly or
25 indirectly (either alone or pursuant to an ar-

1 rangement or understanding with one or more
2 persons) such a controlling influence over the
3 management or policies of any public utility or
4 holding company as to make it necessary or ap-
5 propriate for the protection of consumers with
6 respect to rates that such person be subject to
7 the obligations, duties, and liabilities imposed in
8 this title upon holding companies.

9 (33) The term “regulated service” means a
10 wholesale or retail service of which the price or rate
11 is regulated by a Federal, State, or local agency or
12 board.

13 (34) The term “renewable energy” means elec-
14 tricity generated from organic waste biomass (ex-
15 cluding incinerated municipal solid waste or black
16 liquor), dedicated biomass energy crops, landfill gas,
17 geothermal, solar, or wind resources.

18 (35) The term “renewable energy credit” means
19 a tradable certificate of proof that one kilowatt-hour
20 of renewable energy was generated by any person.

21 (36) The term “retail deregulation” means any
22 action taken by a State, with respect to retail elec-
23 tricity service, that reduces the public control and
24 oversight of business practices that affect the public
25 interest.

1 (37) The term “retail electricity” means elec-
2 tricity and ancillary services sold for ultimate con-
3 sumption.

4 (38) The term “retail electricity distributor”
5 means any person who delivers retail electricity to
6 consumers regardless of whether the consumers pur-
7 chase such electricity from the distributor or an al-
8 ternative supplier. A retail electricity distributor may
9 also be a retail electricity supplier.

10 (39) The term “retail electricity service” means
11 the production, generation, retail transmission, dis-
12 tribution, aggregation, retail marketing, retail
13 brokering, retail selling, or other retail supplying of
14 electricity, but does not mean transmission in inter-
15 state commerce.

16 (40) The term “retail electricity supplier”
17 means any person that sells retail electricity to con-
18 sumers, including without limitation regulated utility
19 companies or affiliates or associates of such compa-
20 nies, companies unaffiliated or not associated with
21 regulated utility companies, municipal utilities, coop-
22 erative utilities, local governments, and special dis-
23 tricts.

24 (41) The term “rural electric cooperative”
25 means an enterprise or organization owned by and

1 operated for the benefit of those receiving retail elec-
2 tricity (usually distribution and supply) and other
3 services from the cooperative, many of which have
4 received loans from the Administrator of the Rural
5 Electrification Administration or the Rural Utilities
6 Service under the Rural Electrification Act of 1936.

7 (42) The term “Secretary” means the Secretary
8 of Energy.

9 (43) The term “seller” means a retail electricity
10 distributor or a retail electricity supplier.

11 (44) The term “State” means any State, admit-
12 ted to the union, the District of Columbia, and any
13 organized territory of the United States.

14 (45) The term “State regulatory authority”
15 means the regulatory body of a State or municipality
16 having sole jurisdiction to regulate rates and charges
17 for the distribution of electricity to consumers within
18 the State or municipality.

19 (46) The term “subsidiary company” of a hold-
20 ing company means—

21 (A) any company 10 percent or more of
22 the outstanding voting securities of which are
23 directly or indirectly owned, controlled, or held
24 with power to vote, by such holding company;
25 and

1 (B) any person the management or policies
2 of which the Securities and Exchange Commis-
3 sion, after notice and opportunity for hearing,
4 determines to be subject to a controlling influ-
5 ence, directly or indirectly, by such holding
6 company (either alone or pursuant to an ar-
7 rangement or understanding with one or more
8 other persons) so as to make it necessary for
9 the protection of consumers that such person be
10 subject to the obligations, duties, and liabilities
11 imposed upon subsidiary companies of public
12 utility holding companies.

13 (47) The term “supplier” means a retail elec-
14 tricity supplier.

15 (48) The term “transmission company” means
16 any company that owns or operates facilities used to
17 transmit electricity, but does not include distribution
18 facilities as determined by the Commission.

19 (49) The term “transmission system” means all
20 facilities, including federally owned facilities, trans-
21 mitting electricity in interstate commerce in a par-
22 ticular region, including all facilities transmitting
23 electricity in the State of Texas and those providing
24 international interconnections, but does not include

1 local distribution facilities as determined by the
2 Commission.

3 (50) The term “universal service” means any
4 State or Federal program that ensures safe, afford-
5 able, and reliable access to retail electricity services
6 by any consumer regardless of age, race, creed,
7 color, national origin, ancestry, sex, marital status,
8 sexual orientation, lawful source of income, amount
9 of income, disability, or familial status or location of
10 domicile or business, or whether the consumer is lo-
11 cated in an economically distressed geographic area.

12 (51) The term “wholesale electricity” means
13 electricity and ancillary services sold for resale.

14 (52) The term “wholesale electricity supplier”
15 means any person that sells wholesale electricity.

16 (53) The term “voting security” means any se-
17 curity presently entitling the owner or holder thereof
18 to vote in the direction or management of the affairs
19 of a company.

20 **SEC. 4. SEVERABILITY.**

21 If any provision of this Act, or the application of such
22 provision to any person or circumstance, shall be held in-
23 valid, the remainder of the Act, and the application of
24 such provision to persons or circumstances other than

1 those as to which it is held invalid, shall not be affected
2 thereby.

3 **SEC. 5. ENFORCEMENT.**

4 (a) IN GENERAL.—If any individual or corporation
5 or any other retail electricity distributor or supplier fails
6 to comply with the requirements of this Act, any aggrieved
7 person may bring an action against such entity to enforce
8 the requirements of this Act in the appropriate Federal
9 district court.

10 (b) COURT ACTION.—Notwithstanding any other pro-
11 vision of law, any person seeking redress from an order,
12 rule, or other action taken pursuant to the Act by the
13 Commission, or any other Federal agency, or a regulatory
14 board created by this Act may file a petition for review
15 of such order, rule, or other action within 30 days in the
16 United States Court of Appeals where such person resides
17 or in the United States Court of Appeals for the District
18 of Columbia circuit.

19 (c) STATE LAW.—Notwithstanding any other provi-
20 sion of law, any person seeking redress from an order,
21 rule, or other action taken pursuant to the Act by a State
22 agency may appeal the order, rule, or other action in ac-
23 cordance with State law.

1 **TITLE I—FEDERAL STANDARDS**
2 **FOR ELECTRICITY SERVICE**

3 **SEC. 101. WORKER PROTECTIONS.**

4 (a) IN GENERAL.—Workers of companies that in-
5 stall, operate, and maintain generation, transmission, or
6 distribution facilities, or any person or company that en-
7 ters into a contract to perform these functions, shall have
8 the requisite knowledge, skills, and competence to perform
9 these functions in a safe and responsible manner in order
10 to provide safe and reliable service. Given the critical ne-
11 cessity for trained and qualified personnel to operate all
12 segments of the electric utility industry, the provisions of
13 the 1994 National Skills Standards Act and title V of the
14 Goals 2000: Educate America Act shall take effect for all
15 electric utility workers within 180 days after the effective
16 date of this Act.

17 (b) GENERATING PLANTS.—All generating plants
18 shall be subject to State and Federal general industry re-
19 quirements as established by the Occupational Safety and
20 Health Administration and shall undergo periodic govern-
21 ment inspection.

22 (c) TRANSFER OF OWNERSHIP.—(1) In the event of
23 a sale, purchase, or any other transfer of ownership of
24 one or more divisions or business units, generating sta-
25 tions, and/or generating units of an electric utility, the

1 electric utility's contract and/or agreements with the ac-
2 quiring entity or persons shall require that the entity or
3 persons hire a sufficient number of nonsupervisory em-
4 ployees to operate and maintain the station, division or
5 unit by initially making offers of employment to the non-
6 supervisory workforce of the electric utility's division, busi-
7 ness unit, generating station or generating unit at no less
8 than the wage rates, and substantially equivalent fringe
9 benefits and terms and conditions of employment, that are
10 in effect at the time of transfer of ownership of said divi-
11 sion, business unit, generating station and/or generating
12 units; and said wage rates and substantially equivalent
13 fringe benefits and terms and conditions of employment
14 shall continue for at least 30 months from the time of
15 said transfer of ownership unless the parties mutually
16 agree to different terms and conditions of employment
17 within that 30-month period. If there is litigation con-
18 cerning the sale, or other transfer of ownership of the elec-
19 tric utility's divisions, business units, generating station,
20 or generating units, the 30-month period will begin on the
21 date the acquiring entity or persons take control or man-
22 agement of the divisions, business units, generating sta-
23 tion or generating units of the electric utility.

24 (2) If a utility transfers ownership of one or more
25 divisions, business units, generating stations, and/or gen-

1 erating units of an electric utility to a majority-owned sub-
2 sidiary, that subsidiary shall continue to employ the util-
3 ity's employees who were employed by the utility at such
4 division, business unit, or generating station at the time
5 of the transfer under the same terms and conditions of
6 employment as those employees enjoyed at the time of the
7 transfer.

8 (3) If ownership of the subsidiary is subsequently
9 sold or transferred to a third party, the transition provi-
10 sions of paragraph (1) shall apply.

11 (4) An electric utility company shall offer a transition
12 plan to those employees who are not offered jobs by the
13 acquiring entity if that entity has a need for fewer work-
14 ers.

15 **SEC. 102. CONSUMER PRIVACY.**

16 (a) IN GENERAL.—A consumer shall have a right to
17 the privacy of billing, payment, and specific usage and ap-
18 pliance information that is obtained by the seller in the
19 normal course of business.

20 (b) CUSTOMER-SPECIFIC INFORMATION.—A seller
21 shall obtain the permission of the consumer in writing be-
22 fore releasing customer-specific information. A customer's
23 permission cannot be provided with a clause in a contract
24 for the sale of electricity. Permission can only be obtained
25 in writing on a separate document. Any form provided to

1 the consumer to grant permission for the release of cus-
2 tomer-specific information must clearly specify the type of
3 recipient, the category of information proposed to be re-
4 leased, and how the consumer can rescind this permission
5 at any time.

6 (c) RESCISSION.—A consumer may rescind pre-
7 viously-granted permission at any time in writing to the
8 person who solicited the permission. A rescission is effec-
9 tive no later than three business days after the consumer
10 deposits it in the United States mail.

11 (d) GENERAL INFORMATION.—A seller may at any
12 time release generic information about a customer class
13 or its customers in general, such as load and usage data,
14 appliance penetration, demographic information, and pay-
15 ment experience. Generic customer information shall not
16 be released without permission of the affected customers
17 when the information concerns a customer class or group
18 of customers that is small enough to reveal the probable
19 usage, billing, or payment behavior of individual members
20 of the customer group or class. There shall be a rebuttable
21 presumption that a customer class or group with three or
22 fewer members meets this criteria. Furthermore, no seller
23 shall sell or release information within its possession that
24 would, if used as a basis to grant credit, result in a credit

1 decision on a prohibited basis set forth in the Federal
2 Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.).

3 (e) CUSTOMER NAMES AND ADDRESSES.—A dis-
4 tributor shall make available a list of its current customer
5 names and mailing addresses to any supplier upon request
6 and for a reasonable fee. The revenues received by a dis-
7 tributor for the sale of this information shall be included
8 in the determination of the distributor’s revenue require-
9 ment. The State regulatory authority may impute reve-
10 nues to the distributor to reflect the market value of the
11 information sold or provided to any supplier.

12 (f) LAW ENFORCEMENT.—Federal or State authori-
13 ties or any law enforcement agency may have access to
14 individual customer records without the permission of the
15 customer as necessary to conduct its regulatory duties and
16 supervise sellers for compliance with Federal and State
17 law and this Act. Federal or State authorities or any law
18 enforcement agency shall retain any such records in its
19 files as confidential and such records shall not be consid-
20 ered available to the public under any “right to know”
21 or disclosure law without the written consent of the cus-
22 tomer.

23 (g) CREDIT HISTORY.—A seller may release a cus-
24 tomer’s credit history to a third party in an attempt to
25 collect an unpaid debt or to report on the customer’s pay-

1 ment history to a credit reporting agency under the terms
2 of applicable State and Federal law.

3 **SEC. 103. PAYMENT PLANS.**

4 All distributors and suppliers shall make available de-
5 ferred payment plans and equal monthly budget billing
6 plans.

7 **SEC. 104. BILLS.**

8 (a) IN GENERAL.—A bill issued by a retail electricity
9 distributor or supplier shall contain the following informa-
10 tion in a format understandable by the average customer:

11 (1) The identity of the person issuing the bill,
12 and if the bill is issued by a retail electricity dis-
13 tributor under contract with a supplier, the identity
14 of the supplier, respective addresses, and telephone
15 numbers where the customer can call or write with
16 inquiries.

17 (2) The type of meter in use by the customer,
18 the meter reading from the last bill, the current
19 meter reading, and the total kilowatt-hours used by
20 the customer for the billing period.

21 (3) If the bill is based on an estimated reading,
22 a conspicuous disclosure of this fact.

23 (4) Any additional services or products provided
24 since the issuance of the last bill.

1 (5) The nature of the service being offered, in-
2 cluding information about interruptibility or curtail-
3 ment of service.

4 (6) The variable price (in dollars per kilowatt-
5 hour, as appropriate) and the fixed price (in dollars,
6 as appropriate) of electricity, transmission services,
7 distribution services, taxes; any charges, fees or pen-
8 alties, and the price for other products or services
9 bought by or provided to the customer, all stated in
10 a manner that allows the customer to recalculate the
11 entire bill amount.

12 (7) A clear and understandable description of
13 all charges associated with the service being offered,
14 including access charges, back-up service charges,
15 and customer service charges, except that all dis-
16 tributors shall not itemize any program or charge in-
17 cluded in the rates for services provided by or in-
18 cluded in the rates of the distributor other than
19 those specifically authorized by the State authority
20 that regulates a distributor's terms and conditions.
21 This itemization shall not include the costs of any
22 public benefit program authorized by any Federal or
23 State authority.

1 (8) Every supplier shall, on at least a monthly
2 basis, provide in billing inserts the following infor-
3 mation, in a clearly legible manner.

4 (A) A breakdown, on a percentage basis, of
5 the known sources of electricity sold or other-
6 wise supplied to the consumer. This breakdown
7 shall provide percentages of biomass power,
8 coal-fired power, hydropower, natural gas fired
9 power, nuclear power, oil-fired power, solar
10 power, wind power, power from municipal waste
11 incinerators, other resources, and unknown re-
12 sources purchased from other companies respec-
13 tively. When a supplier has obtained electricity
14 from a power pool, this fact shall be disclosed,
15 and the supplier shall disclose the generic cat-
16 egories (with percentages where applicable) of
17 power dispatched by the pool during the pre-
18 vious billing cycle—

19 (i) the percentage used shall be
20 rounded to the nearest whole number; and

21 (ii) any source of electricity in para-
22 graph (8)(A) that is not used shall be list-
23 ed in the table and depicted as “0 per-
24 cent”.

1 (B) A pie-chart, which graphically depicts
2 the information in paragraph (8)(A), shall also
3 be provided—

4 (i) any source of electricity in para-
5 graph (8)(A) that is not used shall be list-
6 ed next to the pie-chart; and

7 (ii) each segment in the pie-chart
8 shall be depicted in the following colors:
9 biomass power—light brown; coal-fired
10 power—black; hydropower—blue; natural
11 gas-fired power—grey; nuclear power—red;
12 oil-fired power—dark brown; power from
13 municipal waste incinerators—orange;
14 solar power—yellow; wind power—green;
15 and other resources—white.

16 (C) A table shall be provided which depicts
17 the actual emissions of particulate matter be-
18 tween 10 micrometers and 2.5 micrometers in
19 diameter, particulate matter 2.5 micrometers or
20 less in diameter, carbon dioxide, nitrogen ox-
21 ides, sulfur dioxide, mercury, and high-level and
22 low-level nuclear waste attributable to the
23 sources of electricity identified in paragraph
24 (8)(A). The table shall also show the theoretical
25 emissions of such pollutants attributable to the

1 sources of electricity identified in paragraph
2 (8)(A), based on application of the Generation
3 Pollution Standards defined in subsection
4 112(c). The table shall also show the word
5 “Good” if the actual emissions of such pollut-
6 ants are less than or equal to the theoretical
7 emissions, and the word “Bad” if the actual
8 emissions of such pollutants are greater than
9 the theoretical emissions—

10 (i) the particulate matter emissions,
11 carbon dioxide emissions, nitrogen oxides
12 emissions, and sulfur dioxide emissions
13 shall be stated in pounds;

14 (ii) the high-level nuclear waste shall
15 be stated in pounds and curies; and

16 (iii) the low-level nuclear waste shall
17 be stated in cubic feet and curies.

18 (9) A disclosure of the customer’s annual and
19 monthly usage for each of the previous 12 months
20 (or a shorter period for a customer who does not
21 have a 12-month history with the supplier). A dis-
22 tributor and supplier may coordinate this disclosure
23 to avoid duplication and enhance customer under-
24 standing.

1 (b) SERVICES OR PRODUCTS.—A seller may include
2 services or products on the customer’s bill other than for
3 the transmission, distribution and retail sale of electricity,
4 but any such service or product shall be clearly identified
5 and totaled separately from the sales of electricity.

6 (c) PENALTY.—The failure of a seller to accurately
7 disclose information as required by this section shall be
8 treated as a deceptive act in commerce under section 5
9 of the Federal Trade Commission Act (15 U.S.C. 45).

10 **SEC. 105. DISPUTE RESOLUTION.**

11 (a) IN GENERAL.—Each seller shall maintain a writ-
12 ten policy to govern the receipt, investigation, and resolu-
13 tion of customer inquiries and complaints. This policy
14 shall be available to any customer upon request, including
15 requests that occur by a consumer on a walk-in basis dur-
16 ing normal business hours. Each distributor shall main-
17 tain and make publicly available on a walk-in basis during
18 normal business hours the written policies of each seller
19 that in any way uses the distribution facilities of the dis-
20 tribution. At a minimum this policy must include a method
21 to track complaints by category and the retention of com-
22 plaint records for a period of at least one year.

23 (b) COMPLAINTS.—A consumer may initiate com-
24 plaints against the distributor or against any seller that
25 in any way uses the distribution facilities of the distributor

1 through a filing at the distributor's offices, or at the of-
2 fices of the seller, or at the offices of the State regulatory
3 authority. A consumer must be able to file a complaint
4 on a walk-in basis during normal business hours, in addi-
5 tion to any other complaint process established by the sell-
6 er or the State regulatory authority. If a seller has pro-
7 vided a good faith response to the customer and the cus-
8 tomer remains dissatisfied, the seller shall refer the cus-
9 tomer to the State regulatory authority's toll-free number
10 for customer complaints. For a three-business-day period
11 after the referral, the seller shall not take any adverse ac-
12 tion with respect to the customer's complaint. Upon re-
13 ceipt of any complaint from a customer who has attempted
14 to resolve the matter with the seller, the State authority
15 with jurisdiction shall promptly notify the seller who shall
16 take no further adverse action with respect to the disputed
17 amount prior to the State authority's decision on the com-
18 plaint. The State authority may investigate and take
19 whatever action it deems appropriate to resolve the com-
20 plaint, including setting the terms for application for serv-
21 ice, payment arrangement, billing error or dispute, allega-
22 tion of violation of these rules or other matters within the
23 jurisdiction of the State authority.

1 (c) DISCONNECTIONS.—There shall be no disconnec-
 2 tions from service (distribution or supply) while a com-
 3 plaint is pending.

4 (d) ARBITRATION.—There shall be no mandatory ar-
 5 bitration of complaints.

6 (e) RIGHT TO DISPUTE RESOLUTION.—No customer
 7 can be forced to pay a disputed bill in order to assert a
 8 customer’s right to dispute resolution.

9 **SEC. 106. DISTRIBUTION SERVICE AND SUPPLY SERVICE**
 10 **QUALITY STANDARDS.**

11 (a) REPORTS.—On a monthly basis each seller shall
 12 submit reports to the appropriate State regulatory author-
 13 ity and to the Energy Information Administration that de-
 14 scribe, document, and measure the quantity, quality, and
 15 prices for distribution service and supply service.

16 (b) INDEX.—The data reported in subsection (a)
 17 shall be used to create an index that shall track the per-
 18 formance of sellers in selected performance areas on an
 19 annual basis. The index shall be designed to conform to
 20 the following minimum requirements:

21 (1) The index shall track a distributor’s and
 22 supplier’s performance in a range of service quality
 23 and reliability services for electricity consumers, in-
 24 cluding without limitation, rates and prices for elec-
 25 tricity service for all customers, variable charges, ac-

1 cess charges, back-up service charges, customer serv-
2 ice charges, customer satisfaction surveys, business
3 office and phone center performance, repair and in-
4 stallation of new service, connection and disconnec-
5 tion of service, delivery of State or federally man-
6 dated programs, duration and frequency of outages,
7 storm response, customer complaint ratio, accuracy
8 of meter readings and bills, as well as compliance
9 with specific service quality and credit and collection
10 rules applicable to both residential and business cus-
11 tomers.

12 (2) In addition to items specifically mentioned
13 in this Act, the National Association of State Utility
14 Consumer Advocates, the National Association of
15 Regulatory Utility Commissioners, and the Energy
16 Information Administration shall determine the spe-
17 cific items to be measured and reported by distribu-
18 tors and suppliers, with input by other government
19 and nongovernment organizations as needed.

20 (3) The index shall specify the source and re-
21 porting format of the data to be used by the dis-
22 tributors and suppliers in their filings with State
23 regulatory authorities and the Energy Information
24 Administration, and the State regulatory authorities
25 or the Energy Information Administration may

1 audit the data provided by the distributors or sup-
2 pliers at the expense of the distributor or the sup-
3 plier.

4 (4) The index shall track the performance of
5 the sellers in selected performance areas on an an-
6 nual basis in comparison to a baseline performance
7 level that shall be set to reflect either recent histor-
8 ical performance of the seller, taking into account a
9 reasonable margin of error, or at a higher perform-
10 ance level if a State regulatory authority determines
11 that the seller's recent historical performance is not
12 adequate. If the seller has not maintained historical
13 data sufficient to establish a baseline for a par-
14 ticular performance area and a State regulatory au-
15 thority determines that the performance area should
16 be measured, the State regulatory authority may au-
17 thorize the use of recent data from comparable sell-
18 ers.

19 (5) Each item in the index shall be worth an
20 equal number of points. Performance for one item
21 shall not offset performance in any other item in the
22 index. If the seller's annual performance is equal to
23 or better than the baseline performance level, the
24 maximum number of points for that item shall be
25 awarded. If the seller's performance is below the

1 level established as the baseline, a percentage of the
2 maximum points shall be awarded equal to the per-
3 centage deterioration in performance reported by the
4 seller. In other words, if the seller performs at 80
5 percent of the baseline performance level, 80 percent
6 of the maximum points will be awarded for that
7 item.

8 (6) A specific measurement shall be adopted to
9 assure the seller fulfills its Universal Service obliga-
10 tions. A distributor shall annually survey the ability
11 of its customers to afford electric service. The survey
12 shall specifically target customers with annual
13 household income of 150 percent of Federal poverty
14 guidelines or less but may also target higher income
15 households as well. The survey shall obtain data on
16 the affordability of electric service by measuring the
17 impact of low, average, and high use customers at
18 0–50 percent, 51–100 percent, and 101–150 percent
19 of Federal poverty guidelines, using the average
20 price charged for basic service during the 12-month
21 period prior to the survey. The distributor shall re-
22 port the results of this survey to the State regu-
23 latory authority and to the Energy Information Ad-
24 ministration, both of which will make them available
25 for free to the general public. When the results of

1 the survey indicate that one or more groups of cus-
2 tomers with income of 150 percent of Federal pov-
3 erty guidelines or less pay, on average, over ten per-
4 cent of their annual income for electricity (15 per-
5 cent if the household uses electricity as the primary
6 heating source), the distributor shall expand or ini-
7 tiate programs to assist the affected customer class-
8 es in the payment of their electric bill, to reduce the
9 amount of the bill with energy efficiency programs,
10 or both.

11 (c) PENALTY.—A penalty shall be established for dis-
12 tributors that fail to achieve the baseline performance level
13 in any year with a dollar amount specified for each point
14 in the index that is below the baseline performance level.
15 The maximum penalty shall be determined by the State
16 regulatory authority after taking into account the recent
17 history of the distributor in achieving reasonable service
18 quality and reliability. The dollar amount of penalty in any
19 one year may vary with the degree of deterioration of per-
20 formance by the distributor, but the entire penalty shall
21 be assessed if the distributor's performance in any one
22 year shows a 30 percent deterioration in performance in
23 the overall index. A distributor shall not be awarded in-
24 creased earnings for performance above the baseline level
25 in any item.

1 (d) CREDIT OR REBATE.—Any penalties incurred
2 under the index may be returned to all customers in the
3 form of a one-time credit or rebate or paid to customers
4 affected by the degradation of service, such as a failure
5 to install new service on time, or both. In either case, in
6 any year in which penalties are triggered, the distributor
7 shall inform its customers of its failure to achieve the
8 baseline level of service quality in a manner approved by
9 the State regulatory authority.

10 (e) REPORT.—Annually the Energy Information Ad-
11 ministration shall make publicly available for free a report
12 (including all supporting documentation) showing the
13 scores of each retail electricity distributor and each retail
14 electricity supplier for every item measured by the index.
15 The report and all supporting data and documentation
16 must be posted on the Internet for free downloading in
17 a form usable with off-the-shelf spreadsheet and database
18 software.

19 **SEC. 107. CITIZEN UTILITY BOARDS.**

20 (a) ESTABLISHMENT.—Unless already in existence,
21 each State shall create a not-for-profit membership cor-
22 poration to be known as the “Citizens’ Utility Board,
23 Inc.” herein referred to as the State CUB. An existing
24 not-for-profit membership corporation located in a State

1 may become the State CUB provided it meets all the re-
2 quirements of this section.

3 (b) MEMBERSHIP.—The membership of the State
4 CUB shall consist of all residential consumers of elec-
5 tricity or natural gas 16 years of age or older who have
6 contributed to the State CUB an annual membership fee,
7 provided, that any person may resign from membership.

8 (c) DUTIES, RIGHTS, AND POWERS OF THE STATE
9 CUB.—(1) The State CUB shall—

10 (A) represent and promote the interests of a
11 State’s residential consumers of electricity or natural
12 gas. All actions by the State CUB under this section
13 shall be directed toward such duty;

14 (B) inform, insofar as possible, all residential
15 consumers of electricity or natural gas about the
16 State CUB including the procedure for obtaining
17 membership in the State CUB;

18 (C) establish an annual membership fee which
19 shall be set at a level that provides sufficient fund-
20 ing for the State CUB to effectively perform its
21 powers and duties, and is affordable for as many
22 electricity or natural gas consumers as is possible,
23 but nevertheless is not less than five dollars; and

24 (D) have all rights and powers accorded gen-
25 erally to, and be subject to all duties imposed gen-

1 erally upon, not-for-profit membership corporations
2 under the laws of a State.

3 (2) In addition, the State CUB shall have the fol-
4 lowing rights and powers:

5 (A) To solicit and accept gifts, loans, grants or
6 other aid in order to support activities concerning
7 the interests of residential consumers of electricity
8 or natural gas, except that the State CUB may not
9 accept gifts, loans or other aid from any person or
10 company that generates, transmits, distributes, or
11 supplies electricity or natural gas, or from any direc-
12 tor, employee or agent or member of the immediate
13 family of a director, employee or agent of any com-
14 pany that generates, transmits, distributes, or sup-
15 plies electricity or natural gas.

16 (B) To seek tax-exempt status under State and
17 Federal law.

18 (C) To conduct, support, and assist research,
19 surveys, investigations, planning activities, con-
20 ferences, demonstration projects, and public infor-
21 mation activities concerning the interests of residen-
22 tial consumers of electricity or natural gas. The
23 State CUB may accept grants, contributions, and
24 legislative appropriations for such activities.

1 (D) To contract for services which cannot rea-
2 sonably be performed by its employees.

3 (E) To represent the interests of residential
4 consumers of electricity or natural gas before regu-
5 latory agencies, legislative bodies and other public
6 bodies.

7 (F) To initiate, to intervene as a party, to
8 maintain, or to otherwise participate on behalf of
9 residential consumers of electricity or natural gas in
10 any proceeding that affects the interests of residen-
11 tial consumers of electricity or natural gas.

12 (G) To support or oppose ballot propositions
13 concerning matters that it determines may affect the
14 interests of residential consumers of electricity or
15 natural gas.

16 (3) The State CUB shall have, in addition to the
17 rights and powers enumerated in this section, such other
18 incidental rights and powers as are reasonably necessary
19 for the effective representation and protection of the inter-
20 ests of residential consumers of electricity or natural gas.

21 (4) The State CUB shall not sponsor, endorse, or
22 otherwise support, nor shall it oppose, any political party
23 or the candidacy of any person for public office.

24 (d) STATE-ASSISTED FUNDRAISING BY THE STATE
25 CUB.—(1) The State CUB shall have the authority to

1 prepare and furnish to any State agency an enclosure that
2 the State agency shall include within any mailing des-
3 ignated by the State CUB. The State CUB shall provide
4 the agency with any such enclosure at a time reasonably
5 in advance of the mailing. The State CUB may not require
6 any State agency to mail an enclosure more than four
7 times in any calendar year.

8 (2) Enclosures furnished by the State CUB under
9 this section shall be limited to soliciting information and
10 money from consumers and explaining—

11 (A) the purpose, history, nature, activities, and
12 achievements of the State CUB;

13 (B) that the State CUB is open to membership
14 by residential consumers;

15 (C) that the State CUB is not connected to any
16 utility company or governmental agency;

17 (D) that the State CUB is a not-for-profit cor-
18 poration directed by its consumer members;

19 (E) the procedure for contributing to or becom-
20 ing a member of the State CUB; and

21 (F) the yearly membership fee.

22 (3) Prior to furnishing an enclosure to a State agency
23 for mailing, the State CUB shall seek and obtain the ap-
24 proval of the appropriate State authority of the content

1 of the enclosure. The State authority shall approve the en-
2 closure if it determines that the enclosure—

3 (A) is not false or misleading, and

4 (B) contains and is limited to the information
5 permitted by this section. The State authority shall
6 be deemed to have approved the enclosure unless it
7 disapproves the enclosure within fourteen days of re-
8 ceipt.

9 (4) The State CUB shall reimburse each State agen-
10 cy for all reasonable incremental costs incurred by the
11 State agency in complying with this section above the
12 agency's normal mailing and handling costs, provided
13 that—

14 (A) the State agency shall first furnish the
15 State CUB with an itemized accounting of such ad-
16 ditional costs; and

17 (B) the State CUB shall not be required to re-
18 imburse the State agency for postage costs if the
19 weight of the State CUB's enclosure does not in-
20 crease the cost of the State agency mailing. If the
21 State CUB's enclosure increases the cost of the
22 State agency mailing, then it will be required to re-
23 imburse the State agency for postage cost over and
24 above what the agency's postage cost would have
25 been without the State CUB's enclosure.

1 **SEC. 108. OFFICE OF CONSUMER COUNSEL.**

2 The Federal Power Act is hereby amended by adding
3 the following new section after section 320:

4 **“SEC. 320A. OFFICE OF CONSUMER COUNSEL.**

5 “(a) ESTABLISHMENT.—There is hereby established
6 within the Federal Energy Regulatory Commission an Of-
7 fice of the Consumer Counsel. The Office shall be under
8 the direction and supervision of the Consumer Counsel.
9 The Consumer Counsel shall be appointed by the Commis-
10 sion for a term of not less than 5 years, which term may
11 be renewed at the discretion of the Commission.

12 “(b) FINDINGS.—There is authorized to be appro-
13 priated in each fiscal year to the Office of Consumer
14 Counsel \$10,000,000, adjusted for inflation.

15 “(c) STAFFING.—Staffing for the Office of Consumer
16 Counsel may include attorneys, economists, utility ana-
17 lysts, engineers, human services experts, and other staff,
18 professional and nonprofessional, and may include consult-
19 ants to provide advice, analysis, testimony, and represen-
20 tation of the Consumer Counsel before the Commission.

21 “(d) DUTIES.—The Consumer Counsel shall rep-
22 resent the energy using and consuming public in pro-
23 ceedings before the Commission that may affect wholesale
24 or retail electric or gas service, prices, and practices. The
25 Consumer Counsel may intervene in any proceeding under
26 this Act.

1 “(e) REPORTS.—The Consumer Counsel shall annu-
2 ally report to the Commission and the Congress on the
3 impact of wholesale and retail deregulation in the elec-
4 tricity and gas industries on the using and consuming
5 public, and on affordable access to such services, and shall
6 make recommendations for policies to address such prob-
7 lems in these areas as the Consumer Counsel shall iden-
8 tify.

9 “(f) REMOVAL.—The Consumer Counsel may be re-
10 moved by the Commission for cause, after a hearing on
11 any allegations giving rise to such cause.”.

12 **SEC. 109. PROHIBITION OF POWER PLANT BAILOUTS.**

13 (a) PROHIBITION.—It shall be unlawful for any Fed-
14 eral or State authority to require consumers to subsidize,
15 directly or indirectly, the costs of owning or operating any
16 power plant owned by an investor-owned company.

17 (b) EXEMPTION.—Subsection (a) shall not apply to
18 any facility or power plant that qualifies for support from
19 the National Electric Public Benefit Fund or that pro-
20 duces renewable energy credits.

21 (c) SAVINGS CLAUSE.—Nothing in this section af-
22 fects the rights and remedies of any party with respect
23 to the purchase of electricity or capacity from or to a facil-
24 ity determined to be a qualifying small power production
25 facility or a qualifying cogeneration facility under section

1 210 of the Public Utility Regulatory Policies Act of 1978
2 pursuant to any contract or obligation to purchase or to
3 sell electricity or capacity, including the right to recover
4 the costs of purchasing such electricity or capacity.

5 (d) ESCROW.—On the effective date of this Act, every
6 investor-owned company that holds a license to operate a
7 nuclear reactor shall place in escrow \$1,000,000,000 per
8 reactor to cover costs for nuclear reactor decommissioning,
9 \$500,000,000 per reactor for low-level radioactive waste
10 disposal, and \$500,000,000 per reactor for high-level ra-
11 dioactive waste disposal.

12 **SEC. 110. PROHIBITION OF AFFILIATE ABUSES AND CROSS-**
13 **SUBSIDIES.**

14 It shall be unlawful for any State-regulated investor-
15 owned electric utility company, or associated holding com-
16 pany or any subsidiary thereof, to own directly or indi-
17 rectly any voting security of any company that provides
18 a nonregulated service, or that provides any type of service
19 outside the United States, or to provide any nonregulated
20 service.

21 **SEC. 111. MERGERS.**

22 (a) IN GENERAL.—No transactions subject to section
23 203 of the Federal Power Act shall be deemed to be con-
24 sistent with the public interest within the meaning of sec-
25 tion 203 if the Commission finds that the transaction may

1 create or maintain a situation inconsistent with the anti-
2 trust laws in any product and geographic market in which
3 electricity or capacity is offered for sale to wholesale or
4 retail customers in the form of—

- 5 (1) generation capacity;
- 6 (2) transmission capacity; or
- 7 (3) electricity.

8 (b) PROBABLE EFFICIENCIES.—Probable efficiencies,
9 including savings and benefits resulting from a merger,
10 will not be weighed against the effects of a merger that
11 may substantially lessen competition in any geographic
12 market for electricity if such efficiencies could be achieved
13 by means other than the merger.

14 (c) PLAN.—Any claim by applicants that a merger
15 will produce probable efficiencies, including benefits and
16 savings, must be supported by a plan accounting for such
17 efficiencies, and explaining how they will be allocated
18 among the merging utilities wholesale, retail, and trans-
19 mission customers.

20 (d) OPEN ACCESS.—No merger of transmission-own-
21 ing public utilities or disposition of transmission facilities
22 shall be deemed to be consistent with the public interest
23 within the meaning of section 203 of the Federal Power
24 Act, unless the applicants agree to offer comparable open
25 access transmission with single system pricing.

1 (e) REDUCTION OF TRANSMISSION CAPACITY.—No
 2 transaction subject to section 203 of the Federal Power
 3 Act shall be deemed to be consistent with the public inter-
 4 est within the meaning of section 203 if it would result
 5 in a reduction of transmission capacity presently available
 6 for use by transmission customers.

7 (f) AUTHORIZATION.—Section 203(a) of the Federal
 8 Power Act is amended by inserting after the first sentence
 9 the following: “It shall be unlawful for a holding company
 10 in a holding company system that includes an electric util-
 11 ity company to directly or indirectly purchase, acquire, or
 12 take any security of any electric utility company or of a
 13 holding company in a holding company system that in-
 14 cludes an electric utility company, without first having se-
 15 cured an order of the Commission authorizing it to do so.”

16 **SEC. 112. POLLUTION STANDARDS.**

17 (a) DEFINITIONS.—For purposes of this section:

18 (1) COVERED GENERATION FACILITY.—The
 19 term “covered generation facility” means an electric
 20 generation facility with a nameplate capacity of 15
 21 megawatts or greater that uses a combustion device
 22 or nuclear reactor to generate electricity for sale.

23 (2) COGENERATION.—The term “cogeneration”
 24 means a process of simultaneously generating elec-
 25 tricity and thermal energy in which a portion of the

1 energy value of fuel consumed is recovered as heat
2 that is used to meet heating or cooling loads outside
3 the generation facility.

4 (3) POLLUTANT.—The term “pollutant”
5 means—

6 (A) nitrogen oxides;

7 (B) sulfur dioxide;

8 (C) carbon dioxide;

9 (D) mercury;

10 (E) high-level nuclear waste;

11 (F) low-level nuclear waste; or

12 (G) any other substance that the Adminis-
13 trator may identify by regulation as a substance
14 the emission of which from a combustion device
15 or nuclear reactor used in the generation of
16 electricity endangers public health or welfare.

17 (b) NATIONWIDE POLLUTION STANDARDS.—

18 (1) SCHEDULE.—Not later than July 1, 2001,
19 the Administrator shall promulgate a final regula-
20 tion that establishes a schedule of limits on the
21 amount of each pollutant that all covered generation
22 facilities in the aggregate nationwide shall be per-
23 mitted to pollute in each calendar year beginning in
24 calendar year 2002.

1 (2) LIMIT.—The nationwide pollution standard
2 for calendar year 2005 and each year thereafter, un-
3 less otherwise specified, established under paragraph
4 (1) shall be not greater than the following:

5 (A) For nitrogen oxides, 1,660,000 tons
6 (which represents a 79 percent decrease from
7 1990 emissions of 7,500,000 tons, and is in-
8 tended to result in an emission rate of 0.15
9 pounds of nitrogen oxides per million British
10 thermal units of primary energy consumed to
11 produce electricity).

12 (B) For sulfur dioxide, 3,580,000 tons
13 (which represents a 77 percent decrease from
14 1990 emissions of 15,800,000 tons, and is in-
15 tended to result in an emission rate of 0.30
16 pounds of sulfur dioxide per million British
17 thermal units of primary energy consumed to
18 produce electricity).

19 (C) For carbon dioxide, 1,710,000,000
20 tons (which represents a 10 percent decrease
21 from 1990 emissions of 1,920,000,000 tons),
22 decreasing each year after 2005 in equal incre-
23 ments to 1,425,000 tons by 2010 (which rep-
24 resents a 25 percent decrease from 1990 emis-
25 sions), decreasing each year after 2010 in equal

1 increments to 380,000,000 tons by 2030 (which
2 represents an 80 percent decrease from 1990
3 emissions).

4 (D) For mercury, the Administrator shall
5 determine a standard that allows for the elimi-
6 nation of mercury emissions by 2010.

7 (E) For high-level waste, the Adminis-
8 trator shall determine a standard that allows
9 for the reduction of the production of radiation
10 (in curies) by 5 percent from levels in 2000,
11 and 2 percent for each year after 2005.

12 (F) For low-level nuclear waste, the Ad-
13 ministrator shall determine a standard that al-
14 lows for the reduction of the production of radi-
15 ation (in curies) by 25 percent from levels in
16 2000, and 5 percent for each year after 2005.

17 (3) ADJUSTMENT.—The Administrator may ad-
18 just the schedule established under paragraph (1),
19 within the limits established by paragraph (2), if the
20 Administrator determines that an adjustment would
21 be in the best interests of the public health and wel-
22 fare.

23 (c) GENERATION POLLUTION STANDARD.—

24 (1) ANNUAL DETERMINATION.—

1 (A) IN GENERAL.—Not later than October
2 1 of each year, the Administrator, in consulta-
3 tion with the Commission, shall determine the
4 generation pollution standard for nitrogen ox-
5 ides, sulfur dioxide, carbon dioxide, and mer-
6 cury pollution in pounds per kilowatt-hour of
7 electric production by covered generation facili-
8 ties for the next calendar year; and high-level
9 nuclear waste in pounds per kilowatt-hour and
10 curies per kilowatt-hour and low-level nuclear
11 waste in cubic feet per kilowatt-hour and curies
12 per kilowatt-hour of electric production by cov-
13 ered generation facilities for the next calendar
14 year.

15 (B) METHOD.—The Administrator shall
16 determine by regulation the method to be used
17 in determining an estimate under subparagraph
18 (A).

19 (2) FORMULA.—The generation pollution stand-
20 ard shall be determined by dividing the annual na-
21 tionwide pollution standard as established under
22 subsection (b) by the Administrator's estimate of the
23 nationwide kilowatt-hour production for the next cal-
24 endar year by all covered generation facilities.

25 (d) GENERATING PLANTS.—

1 (1) IN GENERAL.—The average rate of pollut-
2 ants at any covered generation facility over any 30-
3 day period shall not exceed the generation perform-
4 ance standard established under subsection (c).

5 (2) PENALTY.—The owner or operator of a cov-
6 ered generation facility that emits in excess of the
7 maximum emission rate established under this sec-
8 tion shall be subject to a penalty of \$100,000 per
9 day for each day in which the average emission rate
10 over any 30-day period exceeds the maximum emis-
11 sion rate.

12 (e) MONITORING.—

13 (1) ESTABLISHMENT OF SYSTEM.—The Admin-
14 istrator shall establish a system for the accurate
15 monitoring of the amount of each pollutant that a
16 covered generation facility emits during a year.

17 (2) REQUIREMENTS.—The monitoring system
18 under paragraph (1) shall require—

19 (A) installation on each covered generation
20 facility of a continuous monitoring system for
21 each pollutant; or

22 (B) use of an alternative mechanism that
23 the Administrator determines will provide data
24 with precision, reliability, accessibility, and
25 timeliness that are equal to or greater than

1 those that would be achieved by a continuous
2 emissions monitoring system.

3 (f) POWERS.—The Administrator may promulgate
4 such regulations, conduct such investigations, and take
5 such other actions as are necessary to appropriate to im-
6 plement and obtain compliance with this section and regu-
7 lations promulgated under this section.

8 **SEC. 113. NATIONAL ELECTRIC PUBLIC BENEFIT BOARD.**

9 (a) ESTABLISHMENT.—The Secretary shall establish
10 a National Electric Public Benefit Board to carry out the
11 functions and responsibilities described in this section and
12 in section 114.

13 (b) MEMBERSHIP.—The Board shall be composed
14 of—

15 (1) 1 representative of the Commission ap-
16 pointed by the Commission;

17 (2) 1 representative of the Secretary appointed
18 by the Secretary;

19 (3) 1 representative appointed by the Secretary
20 of the Department of Health and Human Services;

21 (4) 1 representative appointed by the Adminis-
22 trator of the Rural Utilities Service of the Depart-
23 ment of Agriculture;

1 (5) 1 representative appointed by the Secretary
2 of the Department of Housing and Urban Develop-
3 ment;

4 (6) 1 representative appointed by the Secretary
5 of the Department of Labor.

6 (7) 1 person nominated by the national organi-
7 zation representing State regulatory commissioners
8 and appointed by the Secretary;

9 (8) 1 person nominated by the national organi-
10 zation representing State utility consumer advocates
11 and appointed by the Secretary;

12 (9) 1 person nominated by the national organi-
13 zation representing State energy offices and ap-
14 pointed by the Secretary;

15 (10) 1 person nominated by the national orga-
16 nization representing energy assistance directors and
17 appointed by the Secretary; and

18 (11) 1 representative of the Environmental Pro-
19 tection Agency appointed by the Administrator.

20 (c) CHAIRPERSON.—The Secretary shall select a
21 member of the Board to serve as Chairperson of the
22 Board.

23 (d) MANAGER.—

24 (1) APPOINTMENT.—The Board shall by con-
25 tract appoint a public benefits manager for a term

1 of not more than 3 years, which term may be re-
2 newed by the Board.

3 (2) COMPENSATION.—The compensation and
4 other terms and conditions of employment of the
5 manager shall be determined by a contract between
6 the Board and the individual or the other entity ap-
7 pointed as manager.

8 (3) FUNCTIONS.—The manager shall—

9 (A) monitor the amounts in the Fund;

10 (B) receive, review, and make rec-
11 ommendations to the Board regarding applica-
12 tions from States under subsection 5(b); and

13 (C) perform such other functions as the
14 Board may require to assist the Board in car-
15 rying out its duties under this Act.

16 **SEC. 114. NATIONAL ELECTRIC PUBLIC BENEFIT FUND.**

17 (a) ESTABLISHMENT.—

18 (1) IN GENERAL.—The Board shall establish an
19 account or accounts at 1 or more financial institu-
20 tions, which account or accounts shall be known as
21 the “National Electric Public Benefit Fund”, con-
22 sisting of amounts deposited in the fund under sub-
23 section (c).

1 (2) STATUS OF FUND.—The wires charges col-
2 lected under subsection (c) and deposited in the
3 Fund—

4 (A) shall constitute electric system reve-
5 nues and shall not constitute funds of the
6 United States;

7 (B) shall be held in trust by the manager
8 of the Fund solely for the purposes stated in
9 subsection (b); and

10 (C) shall not be available to meet any obli-
11 gations of the United States.

12 (b) USE OF FUND.—

13 (1) FUNDING OF UNIVERSAL ELECTRIC SERV-
14 ICE.—One-third of the amount in the Fund shall be
15 used by the Board to provide funds to States for the
16 support of affordable electric service for low and
17 moderate income residential customers.

18 (2) FUNDING OF OTHER PUBLIC PURPOSE PRO-
19 GRAMS.—The balance of the amounts in the Fund
20 shall be used by the Board to provide matching
21 funds to States for the support of State public pur-
22 pose programs relating to—

23 (A) the impacts on employees and their
24 communities of any necessary reductions in the
25 utility workforce directly caused by electricity

deregulation. These impacts shall be mitigated to the extent practicable through such means as offers of voluntary severance, job retraining, early retirement, continued health care, outplacement and related benefits;

(B) renewable energy sources;

(C) energy conservation and efficiency; or

(D) research and development in areas described in subparagraphs (B) and (C).

(3) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall instruct the manager of the Fund to distribute all amounts in the Fund to States to fund public purpose programs under paragraphs (1) and (2).

(B) FUND SHARE; UNIVERSAL ELECTRIC SERVICE PROGRAMS.—Funds for public purpose programs funded under paragraph (1) shall be distributed to the States in proportion to the State's relative share of the Nation's aggregate annual consumption of electricity by low- and moderate-income households.

1 (C) FUND SHARE; OTHER PUBLIC PUR-
2 POSE PROGRAMS.—

3 (i) IN GENERAL.—Subject to clause
4 (iii), the Fund share of a public purpose
5 program funded under paragraph (2) shall
6 be 50 percent.

7 (ii) PROPORTIONATE REDUCTION.—
8 To the extent that the amount of matching
9 funds requested by States for public pur-
10 pose programs funded under paragraph (2)
11 exceeds two-thirds of the maximum pro-
12 jected revenues of the Fund, the matching
13 funds distributed to the States shall be re-
14 duced by an amount that is proportionate
15 to each State's annual consumption of elec-
16 tricity compared to the Nation's aggregate
17 annual consumption of electricity.

18 (iii) ADDITIONAL STATE FUNDING.—
19 A State may apply funds to public purpose
20 programs funded under paragraph (2) in
21 addition to the amount of funds applied for
22 the purpose of matching the Fund share.

23 (4) PROGRAM CRITERIA; UNIVERSAL ELECTRIC
24 SERVICE PROGRAMS.—

1 (A) ADVANCE FUNDING FOR CERTIFIED
2 PROGRAMS.—States that implement programs
3 conforming to the standards set forth in this
4 section shall be eligible for advance funding of
5 such programs. The Board shall annually cer-
6 tify to the Secretary the compliance of State
7 programs with this section. The Secretary shall
8 provide a mechanism to ensure that universal
9 electric service is provided to qualifying low-in-
10 come consumers in States that do not have a
11 State program or whose State program does not
12 qualify for funds under this section.

13 (B) UNIVERSAL ELECTRIC SERVICE PRO-
14 GRAM CRITERIA.—To be certified under this
15 section, State programs must contain the fol-
16 lowing provisions:

17 (i) Be designed and implemented to
18 reduce the basic electricity cost burden of
19 a State’s low-income households to no
20 more than twice the burden of a national
21 average of non-low-income households.

22 (ii) Target benefits to the most vul-
23 nerable households.

24 (iii) Be available to all households
25 with annual incomes at or below 150 per-

1 cent of the Federal poverty guidelines, or
2 60 percent of the median State income,
3 but States may determine a higher income
4 level as the cutoff for eligibility.

5 (iv) Set aside up to 30 percent of an-
6 nual program funding for energy conserva-
7 tion and education programs providing di-
8 rect efficiency services to qualifying low-in-
9 come households.

10 (v) Reach the maximum eligible popu-
11 lation, using the most cost-effective out-
12 reach and intake techniques.

13 (vi) Encourage, rather than discour-
14 age, energy conservation, and the prompt
15 payment of bills.

16 (vii) Spend no more than 10 percent
17 of program funds on administration of the
18 program.

19 (viii) The program shall be coordi-
20 nated with the delivery of low-income en-
21 ergy assistance and weatherization pro-
22 grams administered and/or funded by Fed-
23 eral, State, and local agencies, making use,
24 to the fullest extent practicable, of existing
25 community-based organizations who ad-

1 minister one or more fuel assistance and
2 energy efficiency programs.

3 (ix) On an annual basis hold a public
4 hearing on the design and implementation
5 of such Universal Electric Service pro-
6 gram.

7 (x) Provide intervenor funding to
8 allow low-income consumers the oppor-
9 tunity to participate in State or Federal
10 administrative proceedings establishing,
11 monitoring, and overseeing the State re-
12 structuring plan.

13 (5) PROGRAM CRITERIA; OTHER PUBLIC PUR-
14 POSE PROGRAMS.—The Board shall recommend eli-
15 gibility criteria for public benefit programs funded
16 under paragraph (2) for approval by the Secretary.

17 (6) APPLICATION.—Not later than August 1 of
18 each year, a State seeking funds under paragraph
19 (1) or matching funds under paragraph (2) for the
20 following year shall file with the Board, in such form
21 as the Board may require, an application—

22 (A) certifying that the funds will be used
23 for an eligible public purpose program; and
24 specifying what funds are requested and for
25 programs under which paragraph; and

1 (B) stating the amount of State funds ear-
2 marked for the programs, and to be used for
3 any required matching.

4 (c) WIRES CHARGE.—

5 (1) DETERMINATION OF NEEDED FUNDING.—

6 Not later than August 1 of each year, the Board
7 shall determine and inform the Commission of the
8 aggregate amount of wires charges that it will be
9 necessary to have paid into the Fund to pay match-
10 ing funds to States and pay the operating costs of
11 the Board in the following year.

12 (2) IMPOSITION OF WIRES CHARGE.—

13 (A) IN GENERAL.—Not later than Decem-
14 ber 15 of each year, the Commission shall im-
15 pose a nonbypassable wires charge to be paid
16 directly into the Fund by the operator of the
17 wire on electricity carried through the wire, this
18 electricity to be measured as it exits the busbar
19 at a generation facility, and which impacts on
20 interstate commerce.

21 (B) AMOUNT.—The wires charge shall be
22 set at a rate equal to the greater of—

23 (i) 7 mills per kilowatt-hour; or

24 (ii) a rate that is estimated to result
25 in the collection of an amount of wires

1 charges that is as nearly as possible equal
2 to the amount of needed funding deter-
3 mined under paragraph (1).

4 (3) DEPOSIT IN THE FUND.—The wires charge
5 shall be paid by the operator of the wire directly into
6 the Fund at the end of each month during the cal-
7 endar year for distribution by the public benefit
8 manager.

9 (4) PENALTIES.—The Commission shall assess
10 against a wire operator that fails to pay a wires
11 charge as required by this subsection a civil penalty
12 in an amount equal to triple the amount of the un-
13 paid wires charge.

14 (d) AUDITING.—

15 (1) IN GENERAL.—The Fund shall be audited
16 annually by a firm of independent certified public
17 accountants in accordance with generally accepted
18 auditing standards.

19 (2) ACCESS TO RECORDS.—Representatives of
20 the Secretary and the Commission shall have access
21 to all books, accounts, reports, files, and other
22 records pertaining to the Fund as necessary to fa-
23 cilitate and verify the audit.

24 (3) REPORTS.—

1 (A) IN GENERAL.—A report on each audit
2 shall be submitted to the Secretary, the Com-
3 mission, and the Secretary of the Treasury, who
4 shall submit the report to the President and
5 Congress not later than 180 days after the
6 close of the fiscal year.

7 (B) REQUIREMENTS.—An audit report
8 shall—

9 (i) set forth the scope of the audit;
10 and

11 (ii) include—

12 (I) a statement of assets and li-
13 abilities, capital, and surplus or def-
14 icit;

15 (II) a statement of surplus or
16 deficit analysis;

17 (III) a statement of income and
18 expenses;

19 (IV) any other information that
20 may be considered necessary to keep
21 the President and Congress informed
22 of the operations and financial condi-
23 tion of the Fund; and

1 (V) any recommendations with
2 respect to the Fund that the Sec-
3 retary or the Commission may have.

4 **SEC. 115. RENEWABLE ENERGY PORTFOLIO STANDARDS.**

5 (a) MINIMUM RENEWABLE GENERATION REQUIRE-
6 MENT.—(1) By March 22 of each calendar year after
7 2000, each retail electricity supplier shall submit to the
8 Secretary renewable energy credits in an amount equal to
9 the required annual percentage of the supplier's total kilo-
10 watt-hour sales to end-use customers in the preceding cal-
11 endar year.

12 (2) Nothing in this section shall be construed to pro-
13 hibit any State from requiring additional renewable energy
14 generation in that State under any program adopted by
15 the State. A State may limit the benefits of any State re-
16 newable energy program to renewable energy generators
17 located within the State's boundaries.

18 (b) REQUIRED ANNUAL PERCENTAGE.—For end-use
19 customer sales in calendar year 2000, the required annual
20 percentage for each retail electricity supplier shall be set
21 equal to the amount of renewable energy in the United
22 States as of December 1997, and shall be known as the
23 “baseline.” The Secretary shall establish this baseline by
24 rule based on an advance registration process for renew-
25 able energy credits or by conducting a survey of renewable

1 energy generation plants. Such baseline shall be estab-
 2 lished after notice and opportunity for hearing but not
 3 later than 180 days after the enactment of this Act.
 4 Thereafter the required annual percentage for each such
 5 supplier shall increase as set forth in the following table:

Calendar year:	Minimum Percentage Increase (cumulative):
2001	baseline plus 0.50%
2002	baseline plus 1.00%
2003	baseline plus 1.50%
2004	baseline plus 2.00%
2005	baseline plus 3.00%
2006	baseline plus 4.00%
2007	baseline plus 5.00%
2008	baseline plus 6.00%
2009	baseline plus 7.00%
2010	baseline plus 8.00%
2011 and beyond	1.00% additional to the previous year

6 (c) SUBMISSION OF CREDITS.—An electric generator
 7 may satisfy the requirements of subsection (a) through the
 8 submission, by March 22 of the year following each cal-
 9 endar year, of renewable energy credits issued by the Sec-
 10 retary under this section for renewable energy generated
 11 in such calendar year or the previous calendar year. A re-
 12 newable energy credit that is submitted to the Secretary
 13 may not be used for any other purposes thereafter.

1 (d) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

2 (1) IN GENERAL.—The Secretary shall estab-
3 lish, by rule after notice and opportunity for hearing
4 but not later than 120 days after the enactment of
5 this Act, a program to issue renewable energy cred-
6 its to renewable energy electric generators that sell
7 electricity to any other person. Renewable energy
8 credits shall be identified by type of generation and
9 State where the generator is located. Under such
10 program, the Secretary shall issue one renewable en-
11 ergy credit to any person who generates and sells to
12 any other person one kilowatt-hour of renewable en-
13 ergy net of any on-site consumption.

14 (2) FEES.—The Secretary shall impose and col-
15 lect a fee on electric generators awarded renewable
16 energy credits in an amount equal to the reasonable
17 costs of administering the Renewables Portfolio
18 Standard program established under this section
19 which shall be due at the time such credits are
20 issued.

21 (3) PURPA CONTRACTS.—In the case of re-
22 newable energy sold by the renewable energy electric
23 generator at above-market rates to a State regulated
24 electric utility under a contract entered into before
25 the date of enactment of this Act that is subject to

1 section 210 of the Public Utility Regulatory Policies
2 Act of 1978, for the duration of such contract, the
3 utility shall be treated for purposes of the other pro-
4 visions of this section as the generator of such en-
5 ergy unless such generator and utility agree to ter-
6 minate such contract prior to the expiration date set
7 forth in the contract. The Secretary shall settle any
8 disputes regarding the calculation of above-market
9 rates as it pertains to this section.

10 (e) SALE OR EXCHANGE.—Renewable energy credits
11 may be sold or exchanged by the person to whom issued
12 or by any other person who acquires the credit. A renew-
13 able energy credit generated in any year that is not used
14 to satisfy the minimum renewable generation requirement
15 of subsection (a) for that year may be carried forward for
16 use in the following year, but may not be carried forward
17 for use in any subsequent year.

18 (f) RULES AND REGULATIONS.—(1) The Secretary
19 shall promulgate such rules and regulations as may be
20 necessary to carry out this section, including but not lim-
21 ited to such rules and regulations requiring the submission
22 of such information as may be necessary to verify renew-
23 able energy generation by persons applying for renewable
24 energy credits under subsection (d), total end-use cus-
25 tomer sales of any person submitting renewable energy

1 credits for compliance under subsection (a), and to vali-
2 date the renewable energy credits submitted by any person
3 to the Secretary.

4 (2) At the request of any State, the Secretary shall
5 develop administrative procedures and promulgate addi-
6 tional rules and regulations as necessary to facilitate joint
7 implementation of the national renewables portfolio stand-
8 ard and any renewables portfolio standard adopted by any
9 State pursuant to subsection (a)(2).

10 (g) ANNUAL REPORTS.—The Secretary shall gather
11 available data and devise measures to gauge compliance
12 with the requirements of this section and the success of
13 the Renewables Portfolio Standard program established
14 under this section. On an annual basis not later than May
15 31 of each year, the Secretary shall publish a report for
16 the previous year that includes compliance data, program
17 results, and steps taken to improve the program results.

18 (h) SUNSET.—The requirements of this section shall
19 cease to apply 90 days after the Secretary certifies in the
20 annual report under subsection (g) that for the preceding
21 year the market value of renewable energy credits or the
22 number of credits traded or both has declined to such
23 nominal levels that the administrative cost to implement
24 the program is no longer justified.

1 (i) ENFORCEMENT.—(1) The failure or refusal of any
2 person to submit any required quantity of renewable en-
3 ergy credits shall be subject to a civil penalty of 3 times
4 the estimated national average market value (as deter-
5 mined by the Secretary) for the calendar year concerned
6 of such quantity of renewable energy credits. Any such
7 penalty shall be due and payable without demand to the
8 Secretary as provided in regulations to be issued by the
9 Secretary pursuant to subsection (f). Any such payment
10 shall be deposited in the United States Treasury pursuant
11 to the Miscellaneous Receipts Act. Any penalty due and
12 payable under this section shall not diminish the liability
13 of the unit's owner or operator for any fine, penalty or
14 assessment against the unit for the same violation under
15 any other section of this Act.

16 (2) The Secretary shall bring an action in the appro-
17 priate United States district court to impose a civil penalty
18 on any person who fails or refuses to comply with sub-
19 section (a) or who fails to pay such penalty.

20 **SEC. 116. NET-METERING AND INTERCONNECTION STAND-**
21 **ARDS.**

22 The Public Utility Regulatory Policies Act of 1978
23 is amended by adding the following new section after sec-
24 tion 604:

1 **“SEC. 605. NET-METERING FOR RENEWABLE ENERGY.**

2 “(a) DEFINITIONS.—For purposes of this section:

3 “(1) The term ‘eligible on-site generating facil-
4 ity’ means a facility on the site of an electric con-
5 sumer with a peak generating capacity of 2
6 megawatts or less that is fueled solely by a renew-
7 able energy resource.

8 “(2) The term ‘renewable energy resource’
9 means organic waste biomass (not including munic-
10 ipal solid waste of black liquor), dedicated biomass
11 energy crops, landfill gas, geothermal, solar, or wind
12 resources.

13 “(3) The term ‘net-metering service’ means a
14 service to an electricity consumer under which elec-
15 tricity generated by that consumer from an eligible
16 on-site generating facility and delivered to the dis-
17 tribution system through the same meter through
18 which purchased electricity is received may be used
19 to offset electricity provided by the retail electricity
20 supplier to the consumer during the applicable bill-
21 ing period so that a consumer is billed only for the
22 net electricity consumed during the billing period. If
23 the net electricity consumed is less than zero, then
24 the consumer shall be paid during the next billing
25 period the average spot market price for the elec-
26 tricity generated.

1 “(b) REQUIREMENT TO PROVIDE NET METERING
2 SERVICE.—Each retail electricity supplier shall make
3 available upon request net metering service to any retail
4 consumer whom the supplier currently serves or solicits
5 for service.

6 “(c) REQUIREMENT TO PROVIDE INTERCONNEC-
7 TION.—A retail electricity distributor shall permit the
8 interconnection to its distribution system of an on-site
9 generating facility if the facility meets the safety and
10 power quality standards established by the Commission.

11 “(d) RULES.—The Commission shall prescribe safety
12 and power quality standards and rules necessary to carry
13 out this section. These standards and rules apply to any
14 interconnections of an on-site generating facility with a
15 distribution system, regardless of the size of the facility
16 or the type of fuel used by the facility.”.

17 **SEC. 117. CIVIL LIABILITY.**

18 (a) LIABILITY.—A person who fails to abide by the
19 requirements of this Act with respect to any person is lia-
20 ble to such person in the amount of—

- 21 (1) any actual damage sustained by such person
22 as a result of such failure;
23 (2) an amount not less than \$100 nor more
24 than \$1,000 per violation; and

1 (3) in the case of any action to enforce this sec-
2 tion, the costs of the action, together with reason-
3 able attorneys fees as determined by the court.

4 (b) COURT ACTION.—Any action under this section
5 may be brought in any United States District Court, or
6 in any other court of competent jurisdiction, within three
7 years from the date of violation.

8 (c) ACTIONS TO ENFORCE.—An action to enforce
9 this Act may also be brought by any State Attorney Gen-
10 eral of any other agency responsible for its enforcement.

11 **TITLE II—STATE STANDARDS** 12 **FOR ELECTRICITY SERVICE**

13 **SEC. 201. RETAIL DEREGULATION.**

14 (a) PRIOR DEREGULATION.—If a State has enacted
15 laws or regulations to deregulate retail sales of electricity
16 prior to the effective date of this Act, a State shall meet
17 the requirements of this title within 2 years after the effec-
18 tive date of this Act.

19 (b) FUTURE DEREGULATION.—For States that con-
20 tinue to regulate retail sales of electricity for some or all
21 retail customers after the effective date of this Act, a State
22 shall meet the requirements of this title before enacting
23 laws or regulations that deregulate retail sales of elec-
24 tricity for all retail customers.

1 **SEC. 202. PROHIBITION OF COST SHIFTING.**

2 (a) RATES.—No class of consumers in a State shall
3 be charged rates for transmission or distribution service
4 (or other regulated services) in excess of the class’s pro-
5 portional responsibility for the costs of providing these
6 services.

7 (b) RATE DIFFERENTIAL.—On an annual basis, each
8 State regulatory authority shall compute the rate differen-
9 tial for retail electric service between residential and in-
10 dustrial customers by comparing the total average residen-
11 tial rate and the total average industrial rate, based on
12 monthly reports by suppliers to the State regulatory au-
13 thority and the Energy Information Administration. As
14 used in this subsection, “total average residential rate”
15 means the total residential revenues divided by the total
16 residential kilowatt-hour sales; “total average industrial
17 rate” means the total industrial revenues divided by total
18 industrial kilowatt-hour sales; and “rate differential”
19 means the difference between the total average residential
20 rate and the total average industrial rate, divided by the
21 total average residential rate.

22 (c) THREE PERCENT DIFFERENTIAL.—If the State
23 regulatory authority determines that the rate differential
24 for electric service between residential and industrial cus-
25 tomers has increased by three percentage points or more
26 from the rate differential that existed on the day before

1 the State enacted laws or regulations to deregulate retail
2 sales of electricity, the State regulatory authority shall
3 order each distributor to increase the access charge per
4 kilowatt-hour to all industrial customers, and to reduce
5 the access charge per kilowatt-hour to all residential cus-
6 tomers, so that the rate differential remains within three
7 percentage points or less of the rate differential that ex-
8 isted on the day before the State enacted laws or regula-
9 tions to deregulate retail sales of electricity.

10 **SEC. 203. PROHIBITION OF AFFILIATE ABUSES AND CROSS-**
11 **SUBSIDIES.**

12 (a) **TRANSFER OF ASSETS.**—A State’s investor-
13 owned utilities shall—

14 (1) transfer transmission assets to a regulated
15 transmission company; and

16 (2) transfer the distribution assets to a regu-
17 lated distribution company.

18 (b) **DEFINITIONS.**—For the purposes of this section,
19 the terms “transmission company” and “distribution com-
20 pany” mean transmission companies and distribution com-
21 panies created to comply with subsection (a).

22 (c) **PROHIBITION.**—It shall be unlawful for any per-
23 son who owns directly or indirectly any voting security of
24 any company that owns, operates, or leases generation fa-
25 cilities, or for any person who owns directly or indirectly

1 any voting security of any company that sells electricity
2 in wholesale or retail markets, to own directly or indirectly
3 any portion of a transmission company or a distribution
4 company.

5 (d) OFFICERS, DIRECTORS, EMPLOYEES.—It shall be
6 unlawful for any officer, director, or employee of a trans-
7 mission company or a distribution company to have any
8 affiliation with, or to own any security of any company,
9 or any associated company thereof, that owns, operates,
10 or leases generation facilities, or that sells electricity in
11 wholesale or retail markets.

12 (e) OWNERSHIP OF SECURITIES.—It shall be unlaw-
13 ful for any transmission company or any distribution com-
14 pany to own directly or indirectly any security of any other
15 company.

16 (f) LOANS.—It shall be unlawful for any transmission
17 company or any distribution company to borrow from any
18 company, or any associated or affiliated company thereof,
19 that owns, operates, or leases generation facilities, or that
20 sells electricity in wholesale or retail markets.

21 (g) LOANS FROM TRANSMISSION OR DISTRIBUTION
22 COMPANIES.—It shall be unlawful for any person to bor-
23 row from any transmission company or any distribution
24 company.

1 (h) SERVICE, SALES, OR CONSTRUCTION CON-
2 TRACTS.—It shall be unlawful for any transmission com-
3 pany or any distribution company to enter into any serv-
4 ice, sales, or construction contract with any company, or
5 any associated or affiliated company thereof, that owns,
6 operates, or leases generation facilities, except for the pro-
7 vision of generation services that allow for the safe, reli-
8 able, and economical operation of a transmission system
9 or a distribution system as determined through the use
10 of the principles of distributed resources.

11 (i) USE OF NAMES, ETC.—It shall be unlawful for
12 any transmission company or any distribution company to
13 use, or to resemble in anyway, the name, logo, service
14 mark, trademark, or trade name of any company, or any
15 associated company thereof, that owns, operates, or leases
16 generation facilities, or that sells electricity in wholesale
17 or retail markets.

18 (j) ADDITIONAL PROHIBITIONS.—An investor-owned
19 electric utility, a transmission company, and a distribution
20 company—

21 (1) may not discriminate against any other per-
22 son or company in the provision of goods, services,
23 facilities, and information, or in the establishment of
24 standards;

1 (2) shall provide all goods, services, facilities, or
2 information, including marketing leads, to all other
3 persons on reasonable and nondiscriminatory terms
4 and conditions; and

5 (3) shall not provide, transfer, or permit the
6 use of, or access to, tangible or intangible assets of
7 the investor-owned electric utility, transmission com-
8 pany, or distribution company.

9 **SEC. 204. PROHIBITION OF EXCESSIVE GENERATION MAR-**
10 **KET POWER.**

11 (a) IN GENERAL.—It shall be unlawful for any inves-
12 tor-owned generation company, or associated holding com-
13 pany or subsidiary thereof, or an affiliated company, to
14 own, operate, lease, or otherwise control more than 20 per-
15 cent of the State’s power plants within the following cat-
16 egories:

17 (1) Baseload power plants, defined as power
18 plants with a capacity factor greater than or equal
19 to 50 percent.

20 (2) Peaking power plants; defined as power
21 plants with a capacity factor less than 50 percent.

22 (3) Power plants that primarily provide ancil-
23 lary services, including without limitation, load-fol-
24 lowing, spinning reserve, replacement reserves, fre-
25 quency regulation, and voltage regulation.

1 (b) LOAD POCKETS.—If transmission constraints
2 create load pockets within a State, then subsection (a) ap-
3 plies to the ownership, operation, or leasing of power
4 plants located within each load pocket.

5 **SEC. 205. BASIC SERVICE.**

6 (a) IN GENERAL.—A distributor shall arrange for the
7 provision of basic service to any residential and small com-
8 mercial customer who has not chosen a supplier after hav-
9 ing been notified of their opportunity to do so, and those
10 whose supplier has failed or refused to provide further
11 service to the customer. A distributor may arrange for the
12 provision of basic service to any other customer upon re-
13 quest and upon mutually agreeable terms. The distributor
14 shall automatically provide basic service to any customer
15 whose supplier has failed or refused to provide service to
16 that customer unless the customer has given instructions
17 to either disconnect service or switch to a different sup-
18 plier.

19 (b) BIDS.—The distributor shall annually solicit com-
20 petitive bids for the provision of basic service from all sup-
21 pliers licensed to do business in the State. If three or more
22 suppliers submit proposals that meet the minimum terms
23 contained in the bid document, the distributor shall accept
24 the bid that best meets the terms of the bid requirements
25 and offers the lowest price for electricity. If there are less

1 than three suppliers submitting proposals meeting min-
2 imum terms, the State regulatory authority shall approve
3 the price for basic service prior to the award of any bid
4 by the distributor.

5 (c) TERMS.—The distributor shall include the fol-
6 lowing terms in the solicitation for proposals for provision
7 of basic service:

8 (1) The supplier shall provide customers with a
9 choice between a price for electricity which does not
10 vary by time of day or season and a price that varies
11 by time of day and season.

12 (2) There shall be no administrative fee or
13 extra charge for a customer to obtain basic service.
14 There shall be no fee charged for any customer when
15 the service is provided as a result of a supplier's fail-
16 ure or refusal to serve a customer.

17 (3) The current rules in effect governing credit
18 and collection activities, deposits, disconnection, late
19 fees, reconnection fees, winter disconnection rules or
20 other restrictions on disconnection for vulnerable
21 customers, payment arrangements, medical emer-
22 gencies and other customer protections shall be ap-
23 plicable to basic service.

24 (4) The distributor shall bill and collect for
25 basic service charges, and the supplier shall reim-

1 burse the distributor an agreed-upon amount to re-
2 flect the costs avoided by the supplier due to this ar-
3 rangement. The costs of basic service in excess of
4 the revenues received, including any costs incurred
5 to collect overdue amounts, shall be included in the
6 rates charged by the distributor to all its customers.

7 **SEC. 206. AGGREGATION OF CONSUMERS.**

8 (a) **POWERS OF CONSUMERS.**—(1) A State shall
9 allow consumers to establish options for nonprofit public
10 aggregation. A State shall allow consumers to utilize a tra-
11 ditional public process at the local level to authorize public
12 aggregation in the form of new municipal electric systems;
13 franchise contracts; community choice aggregation; coop-
14 erative buying clubs in unincorporated areas.

15 (2) A State shall not diminish, restrict, or otherwise
16 render ineffective the process or ability of consumers to
17 establish or conduct public aggregation options. State
18 agencies are to work cooperatively with local governments
19 to enhance the process for carrying out the provisions of
20 subsections (b), (c), (d), (e), (f), (g), and (h) below.

21 (b) **MUNICIPALIZATION.**—A State shall facilitate the
22 opportunities for consumers to establish new nonprofit
23 municipal electric systems. Such facilitation shall include
24 an arbitration process for asset valuation at original cost
25 minus depreciation. Existing municipal electric systems

1 and existing rural electric cooperative systems, as self-reg-
2 ulated by consumers, are to be exempted from all provi-
3 sions of this section.

4 (c) FRANCHISE CONTRACT.—A State shall facilitate
5 the ability of consumers to utilize local franchise powers.
6 A State shall allow municipalities or counties that have
7 granted franchises to utilities at a prior time, whether the
8 term of such franchise has expired or remains in effect,
9 to offer such franchise for competitive bidding and con-
10 tract award, provided such measures are authorized by
11 consumers in a public process. Such franchises may con-
12 tain terms to address combined distribution and power
13 supply, or any segment of operations for retail electricity
14 service.

15 (d) COMMUNITY CHOICE AGGREGATION.—A State
16 shall allow consumers the option to establish nonfranchise
17 aggregation of all consumers through their local govern-
18 ment. Municipalities or counties shall be allowed to pass
19 ordinances to undertake public aggregation of all classes
20 of consumers, provided such measures are authorized by
21 consumers in a public process. To accommodate those who
22 may not wish to participate, at local discretion, the aggre-
23 gation structure may include a process for individual con-
24 sumers to “opt-out” during a defined time period. Com-
25 munity choice aggregation may address competitive bid-

1 ding and contract award for power supply only, or addi-
2 tional services related to electric supply.

3 (e) BUYING COOPERATIVES IN UNINCORPORATED
4 AREAS.—Consumers in unincorporated areas without the
5 benefit of organized local governments shall be allowed to
6 combine their buying power in cooperative organizations;
7 provided such organizations are nonprofit and nondiscrim-
8 inatory.

9 (f) ENERGY EFFICIENCY FUNDS.—If a State author-
10 izes or mandates collection of funds for energy efficiency
11 programs, consumers who establish aggregation through
12 a public process can recover and utilize funds collected
13 from consumers within the aggregated jurisdiction. A plan
14 for utilization of such funds is to be prepared and subject
15 to approval at the local level, then submitted to the appro-
16 priate State agency for review of consistency with State
17 energy goals.

18 (g) RENEWABLE ENERGY FUNDS.—If a State au-
19 thorizes or mandates collection of funds for renewable en-
20 ergy education, support, or development, consumers who
21 establish aggregation through a public process can recover
22 and utilize funds collected from consumers within the ag-
23 gregated jurisdiction. A plan for utilization of such funds
24 is to be prepared and subject to approval at the local level,

1 then submitted to the appropriate State agency for review
2 of consistency with State energy goals.

3 (h) CONVERGENCE OF UTILITY SERVICES.—If a
4 State authorizes retail marketing of combined “wires” or
5 energy services such as cable television, Internet, natural
6 gas, electricity, telephone, and other related technologies,
7 an entity established by consumers through a public proc-
8 ess shall be allowed to combine any and all services
9 deemed appropriate for provision to the aggregated con-
10 sumers.

11 (i) FEDERAL POWER ACT JURISDICTION.—No local
12 government that aggregates electric load as described in
13 subsection (d) shall be considered a utility engaging in the
14 wholesale purchase and resale of electricity for purposes
15 of the Federal Power Act. Supplying electricity to aggre-
16 gated customers within the boundaries of a local govern-
17 ment shall not be considered a wholesale transaction sub-
18 ject to the jurisdiction of the Federal Regulatory Commis-
19 sion under the Federal Power Act.

20 **SEC. 207. WORKER PROTECTIONS.**

21 (a) RECOVERY OF COSTS.—Electric utilities shall be
22 allowed to recover reasonable employee-related transition
23 costs incurred and projected for programs that provide for
24 offers of voluntary severance, job retraining, early retire-
25 ment, continued health care, outplacement and related

1 benefits. However, there shall be no recovery for employee-
2 related transition costs associated with officers and senior
3 supervisory employees performing predominantly regu-
4 latory functions.

5 (b) UNEMPLOYMENT BENEFITS.—States should con-
6 sider extended unemployment benefits to any employee of
7 an electric utility company who is terminated through no
8 fault of his own as a result of electricity deregulation and
9 is otherwise eligible for unemployment benefits. No such
10 employee shall be denied or be determined to be ineligible
11 for any such benefits if the employer has provided notice
12 of the cessation of employment.

13 (c) PLAN.—Before any such reduction in the work-
14 force, an electric utility shall present to its employees and
15 their representatives a workforce reduction plan outlining
16 the means by which the electric utility intends to mitigate
17 the impact of such workforce reduction on its employees.

18 **SEC. 208. LICENSING AND DISCLOSURE REQUIREMENTS**
19 **FOR RETAIL SUPPLIERS.**

20 (a) PURPOSE.—The purpose of this section is to es-
21 tablish the jurisdiction of the State regulatory authority
22 over retail electricity suppliers and to set forth the condi-
23 tions under which such suppliers may obtain a license to
24 sell retail electricity in a State.

1 (b) LICENSE.—No retail electricity supplier shall en-
2 gage in the business of the sale, marketing, brokering, or
3 aggregating for the sale of electricity in a State without
4 a valid license from the State regulatory authority. All re-
5 tail electric suppliers who seek to do business in a State
6 shall file an application with the State regulatory author-
7 ity that includes the following information:

8 (1) Legal name.

9 (2) Business address.

10 (3) That State where incorporated; date or or-
11 ganization; copy of the articles of incorporation, as-
12 sociation or other form of organization.

13 (4) Names and business address of all officers
14 and directors, partners; or other similar officials.

15 (5) Name, title, and telephone number of cus-
16 tomer service contact person.

17 (6) Name, title, and telephone number of regu-
18 latory contact person.

19 (7) Name, title, and address of registered agent
20 in this State for service of process.

21 (8) Description of the nature of the business to
22 be conducted, a map showing the geographic area of
23 the supplier's intended marketing area, and a list of
24 any restrictions on the type or number of customers
25 the supplier will seek to serve.

1 (9) Evidence of the supplier's right, title, or in-
2 terest in generation supplies sufficient to meet the
3 existing and projected demands of its customers.

4 (10) A copy of the standard contract proposed
5 to be used by the supplier for residential and small
6 commercial customers.

7 (11) Whether the applicant or any member of
8 its board of directors or officers have been or are the
9 subject of State or Federal investigation, license rev-
10 ocation or lawsuit, and, if so, the identification of
11 such States and proceedings.

12 (12) Proof of holding a bond or other evidence
13 of insurance approved by the State regulatory au-
14 thority in the amount reflecting number of cus-
15 tomers served and the amount of electricity sold.
16 The bond must be updated annually on the anniver-
17 sary of the approval of the license, based on the sup-
18 plier's average number of customers and the amount
19 of electricity sold. The bond shall carry an endorse-
20 ment that shall allow the issuer of the bond or in-
21 surer to pay such amounts and in such a manner as
22 ordered by the State regulatory authority upon a
23 finding of fraudulent conduct toward consumers, ac-
24 tions which cause the electricity supply system to be-
25 come unreliable, revocation of the supplier's license,

1 abandonment by the supplier, or, upon complaint, a
2 failure to comply with the settlement's contract with
3 the distributor. The State regulatory authority may
4 order the bond proceeds to be paid to customers as
5 restitution for fraudulent conduct, violation of State
6 law or State regulatory authority rule, or to other
7 individuals adversely affected by the supplier's con-
8 duct.

9 (c) APPROVAL.—The application shall be deemed ap-
10 proved after 90 days, unless the State regulatory authority
11 initiates an adjudicatory proceeding by public notice that
12 states the reason(s) why there is reason to believe that
13 the application should be denied. The applicant shall have
14 an opportunity to correct any deficiency noted by the State
15 regulatory authority in writing or request a public hearing.
16 A failure to comply with the application requirements or
17 evidence that indicates a pattern of violation of State or
18 Federal consumer protection laws and rules, including
19 antitrust laws and securities rules, shall be sufficient to
20 deny an application. A license shall remain valid for a pe-
21 riod of five years unless sooner revoked.

22 (d) CHARGES.—After a license is issued, a retail elec-
23 tricity supplier must inform the State regulatory authority
24 in writing of any substantial change in the information
25 submitted to obtain a license from the State regulatory

1 authority within ten days of the event. The failure to pro-
2 vide such information in a timely manner shall be grounds
3 for revocation of the license.

4 (e) REVOCATION.—The State regulatory authority
5 may revoke a license for the retail sale of electricity for
6 cause after opportunity for public hearing. The State reg-
7 ulatory authority may issue an order that prevents a sup-
8 plier from marketing or signing up new customers during
9 the pendency of an investigation or revocation proceedings
10 when it finds that there is probable cause to believe that
11 consumers will be harmed or that the reliability of the elec-
12 tricity supply of a State will be harmed by the actions of
13 the supplier.

14 (f) OBLIGATIONS TO DISTRIBUTION COMPANIES.—A
15 retail electricity supplier shall enter into a contract with
16 each distributor that services its customers. The contract
17 shall describe the billing arrangements between the dis-
18 tributor and the supplier, how information concerning cus-
19 tomer status will be transmitted between the two entities,
20 whether and under what conditions upstream metering
21 will occur to facilitate settlements of nonhourly metered
22 customers and other settlement issues. The contract shall
23 be filed with the State regulatory authority by the retail
24 electric supplier prior to the commencement of business
25 by the supplier in this State.

1 (g) DISCLOSURE OF UNIVERSAL SERVICE PRO-
2 GRAMS.—A retail electric supplier shall inform every pro-
3 spective customer of the availability of universal service
4 programs for qualified customers and how customers can
5 apply for such programs. A summary of such programs
6 shall be provided in writing within ten days of commence-
7 ment of service for residential customers.

8 (h) STATE REGULATORY AUTHORITY ACCESS TO
9 BOOKS AND RECORDS; INVESTIGATIONS; FINES.—The
10 State regulatory authority shall have access to a retail
11 electric supplier's books and records concerning its busi-
12 ness within this State upon reasonable notice in order to
13 investigate, upon reasonable cause, any alleged violation
14 of this Act. The supplier shall make such books and
15 records available to the State regulatory authority within
16 this State at a location convenient to both parties. Upon
17 reasonable cause, the State regulatory authority may ini-
18 tiate an investigation of the supplier's business in this
19 State for the purpose of determining compliance with any
20 provision of this Act. Upon initiating such investigation,
21 the State regulatory authority shall notify the supplier and
22 other interested parties and take such steps as are nec-
23 essary and proper to protect the confidentiality of infor-
24 mation obtained from suppliers that would unfairly impact
25 the supplier's ability to attract future sales of electricity

1 in this State. The State regulatory authority shall offer
2 the supplier an opportunity to respond and request a pub-
3 lic hearing. Upon a finding that the supplier has violated
4 one or more provisions of this Act, the State regulatory
5 authority may issue such orders as necessary, pursue a
6 revocation of the supplier's license, order restitution to
7 specific customers, and assess fines according to section
8 216 of this Act.

9 **SEC. 209. REGULATION OF DISTRIBUTION COMPANIES.**

10 (a) DISTRIBUTION SYSTEM.—The distributor shall be
11 required to retain its monopoly role with respect to the
12 construction and maintenance of the distribution system
13 for all customers, installation of service and meter read-
14 ing, billing of customers for distribution and transmission
15 services, and provision of optional billing services under
16 contract with retail electricity suppliers. The distributor
17 shall provide access to the electric grid in a nondiscrim-
18 inatory manner to customers, be subjected to regulation
19 of the State regulatory authority for prices and the quality
20 of its customer service, and undertake such additional ob-
21 ligations with respect to energy efficiency and universal
22 access services as determined by the State regulatory au-
23 thority. The purpose of this subsection is to supplement
24 existing law and, where appropriate, substitute rights and

1 obligations for distribution companies in an electricity
2 market characterized by retail deregulation.

3 (b) UNBUNDLED RATES.—A distributor shall
4 unbundle or separate its charges for distribution and
5 transmission services into the following components:

6 (1) Transmission services.

7 (2) Distribution services, which shall include
8 the costs associated with universal service programs
9 and energy efficiency programs or expenses author-
10 ized by the State regulatory authority, bad debt and
11 other expenses associated with consumer protection
12 provisions.

13 (3) Charges for electricity supplied by a retail
14 electricity supplier or basic service arranged by the
15 distributor.

16 (c) CUSTOMER RIGHT OF ACCESS; DUTY OF DIS-
17 TRIBUTOR.—A distributor shall provide access to the elec-
18 tric grid in a nondiscriminatory manner to any person
19 upon request. Any condition imposed by the distributor
20 prior to providing access shall be contained in the com-
21 pany's terms and conditions subject to review by the State
22 regulatory authority. The procedures adopted by the dis-
23 tributor to provide access to retail electric suppliers shall
24 include the following requirements:

1 (1) A distributor must offer to enter into an
2 agreement to govern metering, meter reading, trans-
3 mittal of billing information or billing services, and
4 settlement of accounts with any retail electric sup-
5 plier licensed by the State regulatory authority. The
6 retail supplier shall provide at least two weeks notice
7 to the distributor of its intent to do business in the
8 service territory of the distributor. The agreement
9 between the distributor and the retail electric sup-
10 plier must incorporate the provisions relating to the
11 funding and delivery of basic service programs; im-
12 plementation of the State regulatory authority's re-
13 quirements relating to credit and collection; bill noti-
14 fication and disclosure requirements; and notifica-
15 tion between customers, suppliers, and the dis-
16 tributor of intent to change suppliers or obtain re-
17 connection and disconnection services. A copy of the
18 agreement shall be filed with the State regulatory
19 authority but shall not require State regulatory au-
20 thority approval.

21 (2) No distributor shall discriminate against or
22 show favor toward any retail electric suppliers in its
23 communications or in its course of conduct with cus-
24 tomers or retail electric suppliers.

1 **SEC. 210. CHANGE OF SUPPLIER.**

2 (a) IN GENERAL.—A customer may change his or her
3 electric supplier at any time, subject to any penalty set
4 forth in the contract with the supplier. The distributor
5 may charge a reasonable fee to make a change in the cus-
6 tomer's supplier to reflect the actual cost to read the cus-
7 tomer's meter and make changes in its billing records, ex-
8 cept that every customer may seek to obtain basic service
9 as described in section 205 without charge. When a fee
10 is applicable, the distributor shall offer the customer the
11 option to self-read the meter or provide a timely meter
12 reading at a lower cost.

13 (b) NOTIFICATION.—Except for the automatic provi-
14 sion of basic service, a distributor shall not change the
15 identity of the customer's supplier if there is any reason
16 to believe that the notification procedures of section 213
17 have been violated. Instead, the distributor shall take im-
18 mediate steps to attempt to communicate directly with the
19 customer.

20 (c) NOTICE PERIOD.—A distributor may adopt a rea-
21 sonable notice period to effectuate a customer's change of
22 supplier, but this notice period shall not be greater than
23 three business days. The distributor shall read the cus-
24 tomer's meter or obtain a self-reading from the customer
25 prior to recording a change in the customer's supplier.

1 (d) METER.—Any change in the customer’s supplier
2 shall take effect at the time of the meter reading by the
3 distributor, or, if an actual meter reading is not possible
4 after reasonable efforts to obtain an actual or customer-
5 supplied reading by the distributor, on midnight of the day
6 that the change is implemented by the distributor in its
7 records.

8 **SEC. 211. DISTRIBUTION SERVICE DISCONNECTIONS AND**
9 **SUPPLY TERMINATIONS.**

10 (a) DISCONNECTION.—All customers shall be pro-
11 tected from unreasonable distribution service disconnec-
12 tions and unreasonable supply terminations.

13 (b) DEFINITION.—Unreasonable distribution service
14 disconnection includes, without limitation, disconnection
15 from access—

16 (1) for failure to pay a seller other than the
17 seller of basic service; or

18 (2) in the case of qualified low-income house-
19 holds receiving basic service, before they—

20 (A) have been referred to social service
21 agencies that can provide them with assistance;
22 and

23 (B) have failed to pay under an extended
24 payment agreement; or

1 (3) when such disconnection would be dan-
2 gerous to the health or safety of a member of the
3 household, including during the presence of infants,
4 elders, disabled persons, and during risk of extreme
5 weather conditions. For the purposes of this section,
6 the term “infant” means any child under six years
7 of age, the term “elder” means any person 60 years
8 of age or older, and the term “disabled person” has
9 the same meaning as provided in the Americans with
10 Disabilities Act; or

11 (4) without contacting a third party designated
12 by such household to receive notice of proposed serv-
13 ice disconnection.

14 (c) PROHIBITION.—A seller shall not disconnect or
15 threaten to disconnect the customer’s electric service or
16 to terminate the customer’s electricity supply for failure
17 to pay for products or services other than electricity.

18 (d) PROTECTION.—All customers shall be protected
19 from unreasonable supply termination, including without
20 limitation—

21 (1) termination before adequate notice is pro-
22 vided of the supplier’s intent to terminate, and of
23 the right to continue service via another supplier
24 provider or through basic service; or

1 (2) when used as a mechanism for bill collection
2 or during the pendency of a dispute regarding bill
3 amount.

4 (e) NOTICE.—A supplier may discontinue services to
5 a customer who fails to pay or make a reasonable payment
6 arrangement for an overdue amount in excess of \$50 by
7 giving notice to both the customer and the distributor. The
8 notice shall be in writing and conspicuously disclose the
9 amount overdue, what the customer must do to avoid dis-
10 continuance of service, how the customer can contact the
11 supplier to negotiate terms to avoid disconnection, and
12 how the customer can obtain basic service in place of fur-
13 ther service from the supplier. The notice shall be mailed
14 or delivered at least ten weekdays prior to disconnection
15 of service. Once the due date has passed, the supplier may
16 notify the distributor who shall change the customer's sup-
17 plier upon proper notice from the customer or initiate
18 basic service within three business days. The supplier's ob-
19 ligation to the distributor or network operator shall cease
20 with the disconnection of service by the distributor, the
21 initiation of basic service or the commencement of service
22 to the customer by a different supplier, whichever comes
23 first.

24 (f) TENANTS.—A tenant whose landlord fails to pay
25 for electric service shall not be disconnected from distribu-

1 tion service or from electricity supply. Where metering fa-
2 cilities exist, the tenant shall be offered an opportunity
3 to put service, including basic service, in his or her name.
4 In addition to any other remedy authorized by law, a retail
5 supplier and distributor may file a lien on the property
6 of any owner of a multi-unit, single-metered building for
7 failure to pay for electricity services. This lien shall be
8 filed in the same manner and perfected with the same pro-
9 cedures as those available to towns and cities for the col-
10 lection of unpaid property taxes and sewer charges.

11 (g) PHYSICIANS.—The distributor shall notify all its
12 customers of the right to have a registered physician de-
13 clare a medical emergency in the household and avoid dis-
14 connection for a period not to exceed 90 days. If a dis-
15 tributor receives such a declaration, it shall promptly no-
16 tify the customer's supplier. Upon receipt of a declaration
17 of medical emergency, a retail supplier shall not dis-
18 connect the customer. During this time period the cus-
19 tomer may request basic service or continue with service
20 from his or her retail supplier. During this time period
21 the customer may not be threatened with disconnection
22 and the supplier and distributor shall accept less than pay-
23 ment in full. The customer shall remain liable for all un-
24 paid amounts. At the end of a maximum period of 90

1 days, the customer shall either resume regular payments
2 or pay the overdue amount in full to avoid disconnection.

3 **SEC. 212. CREDIT AND COLLECTION PRACTICES.**

4 (a) STATE REGULATIONS.—A State authority’s cur-
5 rent credit and collection regulations shall remain in effect
6 to govern the actions of a distributor with regard to basic
7 service and the billing and collection of distribution and
8 transmission services provided by the distributor and other
9 companies.

10 (b) BILLING AND COLLECTION.—The following pro-
11 visions apply to the billing and collection for the sales of
12 electricity by retail suppliers and the billing and collection
13 for sales of electricity by distributors under contract with
14 suppliers:

15 (1) A distributor that offers to bill for suppliers
16 shall allocate a customer’s partial payment first to
17 services regulated by the State regulatory authority,
18 including without limitation, distribution and trans-
19 mission services, and then to the unregulated portion
20 of the bill. For purposes of this paragraph, the term
21 “services regulated by the State regulatory author-
22 ity” includes energy management and efficiency
23 services provided to the customer pursuant to an
24 order of a State regulatory authority and billed by
25 the distributor.

1 (2) A retail supplier shall not refuse to grant
2 credit to any applicant based on a prohibited basis
3 contained in the Federal Equal Credit Opportunity
4 Act, 15 U.S.C. 1691–1691f.

5 (3) Any deposit required by a retail supplier
6 shall not exceed the applicant’s estimated bill for a
7 two-month period. The State regulatory authority
8 may waive the supplier’s right to a deposit in any
9 case in which it finds that the supplier has discrimi-
10 nated in its request for a deposit from an applicant.
11 The State regulatory authority may take into ac-
12 count the supplier’s written credit and collection pro-
13 cedures and their application in making this deci-
14 sion. A request for a deposit shall be in writing and
15 inform the applicant of the reason for the request,
16 the source of the information that led to the request,
17 the amount, the applicant’s payment options, and
18 how the applicant can have the deposit refunded.

19 (4) A retail supplier may charge a late fee if a
20 customer’s payment is paid after the due date on the
21 customer’s bill. The amount of the late fee shall not
22 exceed customary business practice for consumer
23 goods.

24 **SEC. 213. UNFAIR TRADE PRACTICES.**

25 The following specific practices shall be prohibited:

1 (1) CRAMMING AND SLAMMING.—No electric
2 utility, distributor, supplier, or any person, firm,
3 corporation, or governmental entity shall make any
4 change to the number of products or services offered
5 (cramming) or authorize a different supplier for any
6 residential or small commercial customer (slamming)
7 until the change has been confirmed by an inde-
8 pendent third-party verification company, as follows:

9 (A) The third-party verification company
10 shall meet each of the following criteria:

11 (i) Be independent from the entity
12 that seeks to provide the new service.

13 (ii) Not be directly or indirectly man-
14 aged, controlled, directed, or owned, wholly
15 or in part, by an entity that seeks to pro-
16 vide the new service or by any corporation,
17 firm, or person who directly or indirectly
18 manages, controls, or directs or owns more
19 than 5 percent of the entity.

20 (iii) Operate from facilities physically
21 separate from those of the entity that
22 seeks to provide the new service.

23 (iv) Not derive commissions or com-
24 pensation based upon the number of sales
25 confirmed.

1 (B) The entity seeking to verify the sale
2 shall do so by connecting the customer by tele-
3 phone to the third-party verification company
4 or by arranging for the third-party verification
5 company to call the customer to confirm the
6 sale.

7 (C) The third-party verification company
8 shall obtain the resident's oral confirmation re-
9 garding the change and shall record that con-
10 firmation by obtaining appropriate verification
11 data. The record shall be available to the cus-
12 tomer upon request. Information obtained from
13 the customer through confirmation shall not be
14 used for marketing purposes. Any unauthorized
15 release of this information is grounds for a civil
16 suit by the aggrieved customer against the enti-
17 ty or its employees who are responsible for the
18 violation.

19 (D) Notwithstanding subparagraphs (A),
20 (B), and (C), a supplier shall not be required
21 to comply with these provisions when the cus-
22 tomer directly calls the supplier to make
23 changes in products, services, or suppliers.
24 However, a supplier shall not avoid the
25 verification requirements by asking a customer

1 to contact a supplier directly to make any
2 change in products, services, or the supplier. A
3 supplier shall be required to comply with these
4 verification requirements for its own products
5 or services. However, a supplier shall not be re-
6 quired to perform any verification requirements
7 for any changes solicited by another supplier.

8 (2) GIFTS.—A supplier shall not provide a gift
9 or inducement to a residential or small commercial
10 customer with a value in excess of \$50 or provide
11 any gift or inducement more than once per 12-
12 month period to the same household or small busi-
13 ness.

14 (3) ADVERTISING.—A supplier shall not adver-
15 tise or disclose the price of electricity in such a man-
16 ner as to mislead a reasonable person into believing
17 that this portion of the bill will be the total bill
18 amount for the delivery of electricity to the cus-
19 tomer's location. When advertising or disclosing the
20 price for electricity, the supplier shall also disclose
21 the distributor's average current charges (including
22 transmission charges) for that customer class as ap-
23 proved by the State regulatory authority.

24 (4) CANCELLATION.—In addition to any other
25 right to revoke an offer, residential and small com-

1 mercial customers have the right to cancel a con-
2 tract without fee or penalty for electric service until
3 midnight of the twentieth business day after the day
4 on which the buyer receives a written confirmation
5 of the agreement to purchase such service. Cancell-
6 ation occurs when the buyer gives written notice of
7 cancellation to the seller at the address specified in
8 the agreement or offer. Notice of cancellation, if
9 given by mail, is effective when deposited in the mail
10 properly addressed with postage prepaid. Notice of
11 cancellation given by the buyer need not take the
12 particular form as provided with the contract or
13 offer to purchase and, however expressed, is effective
14 if it indicates the intention of the buyer not to be
15 bound by the contract.

16 **SEC. 214. METERS.**

17 (a) STANDARD METERS.—A distributor shall con-
18 tinue its obligation to furnish a standard meter to any
19 residential and small commercial applicant for service at
20 a previously unserved location without separate charge.

21 (b) INSTALLATION OF DIFFERENT METERS.—A cus-
22 tomer may install a different meter if it meets the tech-
23 nical qualifications and installation specifications estab-
24 lished by the distributor. The distributor may adopt rea-
25 sonable procedures to assure compliance with its technical

1 qualifications and installation specifications and shall in-
2 form its customers of these requirements promptly upon
3 request.

4 (c) PRICE VARIATIONS.—A supplier may vary the
5 price of electricity based on the type and capacity of the
6 installed meter to record hourly or seasonal prices. A sup-
7 plier's terms may include a requirement that a customer
8 with a nonhourly meter pay a separate fee or penalty if
9 the customer cancels a contract during certain times of
10 the year or without specified notice to the supplier.

11 (d) SALE OR LEASE OF DIFFERENT METERS.—A
12 supplier may offer to sell or lease a different meter and
13 to bill and collect separately for the meter on the electric
14 bill issued by a supplier or distributor.

15 (e) LOAD CURVES.—As a condition of offering elec-
16 tricity for sale within a territory served by a distributor,
17 a supplier must enter into an agreement with the party
18 responsible for settlement of network operations. These
19 agreements must allow for the use of average load shape
20 curves to bill and pay for the use of electricity by cus-
21 tomers without hourly-metered consumption. The average
22 curves shall be calculated at least four times per calendar
23 year for each supplier's customers without hourly meters.

24 (f) PAYMENT PRIOR TO DELIVERY.—It shall be un-
25 lawful to use or to require the use of a prepayment meter,

1 service limiter, or other device or program that requires
2 cash payment prior to the delivery of the service.

3 **SEC. 215. EXEMPTION RESCINDED FROM EQUAL CREDIT**
4 **OPPORTUNITY ACT.**

5 The regulations implementing the Equal Credit Op-
6 portunity Act (15 U.S.C sections 1691–1691(f)) exempt-
7 ing regulated utilities from application of certain provi-
8 sions of that Act, shall not apply to transactions con-
9 cerning the sale of services in a deregulated market.

10 **SEC. 216. CONSUMER REMEDIES.**

11 (a) IN GENERAL.—A consumer damaged by a viola-
12 tion of this section by an entity offering retail electricity
13 service is entitled to recover all of the following:

14 (1) Actual damages.

15 (2) The consumer’s attorney’s fees and court
16 costs.

17 (3) Exemplary damages, in the amount the
18 court deems proper, for intentional or willful viola-
19 tions.

20 (4) Equitable relief as the court deems proper.

21 (b) OTHER RIGHTS.—The rights, remedies and pen-
22 alties established by this section are in addition to the
23 rights, remedies or penalties established under any other
24 law.

○